FEDERAL REGISTER

VOLUME 18 NUMBER 166

Washington, Tuesday, August 25, 1953

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

MISCELLANEOUS AMENDMENTS

1. Effective upon publication in the FEDERAL REGISTER, § 6.133 (d) is revoked.

2. Effective upon publication in the FEDERAL REGISTER, paragraph (a) (1) is added to § 6.312 and paragraph (d) (1) is revoked.

§ 6.312 *Department of Commerce*—(a) *Office of the Secretary.* (1) Deputy Under Secretary for Transportation.

3. Effective upon publication in the FEDERAL REGISTER, subparagraphs (2) through (12) are added to § 6.342 (a) and subparagraphs (4) through (8) are added to § 6.342 (c)

§ 6.342 *Housing and Home Finance Agency*—(a) *Office of the Administrator*

* * *

(2) One Deputy Administrator.

(3) One Assistant Administrator for Plans and Programs.

(4) General Counsel.

(5) Assistant to the Administrator (International Housing Adviser)

(6) Assistant to the Administrator (Racial Relations)

(7) Commissioner, Community Facilities and Special Operations.

(8) Director, Division of Slum Clearance and Urban Redevelopment.

(9) Deputy Director, Division of Slum Clearance and Urban Redevelopment.

(10) Director, Division of Field Coordination.

(11) President, Federal National Mortgage Association.

(12) One Confidential Assistant to the Administrator.

* * * * *

(c) *Public Housing Administration.*

* * *

(4) First Assistant Commissioner.

(5) General Counsel.

(6) Assistant Commissioner for Development.

(7) Assistant Commissioner for Management and Disposition.

(8) Assistant Commissioner for Operations.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, Mar. 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-7495; Filed, Aug. 21, 1953; 5:07 p. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 814.9, Amdt. 1]

PART 814—ALLOTMENT OF SUGAR QUOTAS

PUERTO RICO, 1953

Basis and purpose. This amendment is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act"), for the purpose of revising Sugar Regulation 814.9 (18 F. R. 2493) which allots the 1953 quota for Puerto Rico for consumption in the continental United States (including raw sugar transferred for further processing and shipment within the direct-consumption portion of such quota) and the 1953 sugar quota for local consumption in Puerto Rico among persons who process Puerto Rican sugarcane into sugar (1) to be brought into the continental United States and (2) to be marketed for local consumption in Puerto Rico.

The sugar quota for Puerto Rico for consumption in the continental United States is referred to herein as "mainland quota" and allotments thereof are referred to as "mainland allotments." The sugar quota for consumption in Puerto Rico and allotments thereof are referred to as "local quota" and "local allotments" respectively.

Revision of Sugar Regulation 814.9 is necessary (1) to give effect to Amendment 3 to Sugar Regulation 813 (18 F R. 4759) which prorated a deficit in the 1953 quota for the domestic beet area and increased the 1953 main-

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

land quota for Puerto Rico by 21,083 short tons, raw value, to a total of 1,101,083 short tons, raw value, and (2) to substitute final 1952–53 crop production data as the measure of "processings * * * from * * * proportionate shares."

The allotments established by the initial order were based largely upon incomplete certification to the allottees of the quantities of sugar that might be produced from 1952–53 crop sugarcane to which proportionate shares pertained. Therefore, in order to prevent any allottee from marketing sugar in excess of the allotment established on the basis of the completed data, only 90 percent of the quotas then in effect was allotted until such time as the order might be revised on the basis of completed data. Actual production data are now available. This amendment gives effect to the increase in the mainland quota and provides for the substitution of the actual production data. This amendment also allots the full amount of both quotas.

Each allottee under § 814.9 has agreed to waive its right to a public hearing prior to the revision of the order to give effect to final 1952–53 crop production data and to any change in the mainland quotas. This agreement was conditioned upon the use of the same allotment formula as was used in the initial order. The revised allotments are based on the same formula used in the initial order.

Also as part of this amendment, paragraph (d) of § 814.9 which gave authority for approving exchanges of allotment to the Director, Caribbean Area Office, PMA, is changed to require such approvals by the Chief, Quota and Allotment Division, Sugar Branch, PMA, of the Department.

Since a number of allottees have already brought in or marketed a large portion of their initial allotments, it is imperative that this amendment become effective at the earliest possible date in order to permit continued orderly mar-

keting of sugar. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and consequently this order shall be effective when published in the FEDERAL REGISTER.

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, paragraphs (a) and (d) of § 814.9 are hereby amended to read as follows:

§ 814.9 *Allotments of 1953 sugar quotas for Puerto Rico*—(a) *Allotments.* The 1953 sugar quota for Puerto Rico for consumption in the continental United States (including raw sugar to be further processed and marketed within the direct-consumption portion of such quota) amounting to 1,101,083 short tons of sugar, raw value, and the 1953 sugar quota for local consumption in Puerto Rico, amounting to 110,000 short tons of sugar, raw value, are hereby allotted to the following processors in amounts which appear in columns (1) and (2) opposite their respective names:

(Short tons, raw value)

Processor	Mainland allotment	Local allotment
	(1)	(2)
Antonio Roig, Sucesores, S. en C.	23,261	22,196
Arturo Lluberas, (estate of) y Sobrinos (San Francisco)	5,364	1,797
Asociacion Azucarera Cooperativa (Lafayette)	34,478	557
Central Aguirre Sugar Co., a trust	113,223	1,880
Central Coloso, Inc.	69,240	712
Central Eureka, Inc.	37,013	1,576
Central Guamani, Inc.	11,161	1,376
Central Igualdad, Inc.	27,758	18,491
Central Juanita, Inc.	33,793	2,505
Central Mercedita, Inc.	58,015	20,054
Central Monserrate, Inc.	20,631	1,158
Central San Jose, Inc.	6,998	
Central San Vicente, Inc.	65,223	1,918
Compania Azucarera del Camuy, Inc. (Rio Llano)	14,477	66
Compania Azucarera del Toa	36,807	
Cooperative Azucarera Los Cerros	39,914	80
Corporacion Azucarera Sauri & Subirc (Constancia Ponce)	10,517	1,443
Eastern Sugar Associates, a trust	116,248	15,864
Fajardo Sugar Company	114,550	129
Land Authority of Puerto Rico	72,526	8
Marie Mercado e Hijos (Rufina)	33,999	1,626
Mayaguez Sugar Co., Inc. (Rochelaise)	9,855	162
Plata Sugar Co.	50,728	573
Soller Sugar Co.	12,896	8
South Porto Rico Sugar Co. of Puerto Rico (Guanica)	79,278	15,804
Total quotas	1,101,083	110,000

* * * * *

(d) *Exchange of allotments.* The allotments established in paragraph (a) of this section, or producers' shares thereof established under paragraph (b) of this section, shall not be exchanged without the approval of the Chief of the Quota and Allotment Division, Production and Marketing Administration, U. S. Department of Agriculture.

(Sec. 403, Stat. 932; 7 U. S. C. Sup., 1153. Interprets or applies Sec. 205, 61 Stat. 926; 7 U. S. C. Sup. 1115)

Done at Washington, D. C., this 20th day of August 1953. Witness my hand and the seal of the Department of Agriculture.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-7466; Filed, Aug. 24, 1953; 8:51 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

APPROVAL OF BUDGET OF EXPENSES OF PRUNE ADMINISTRATIVE COMMITTEE FOR 1953–54 CROP YEAR AND FIXING RATE OF ASSESSMENT FOR SUCH YEAR

Notice was published in the August 8, 1953, issue of the FEDERAL REGISTER (18 F. R. 4730) that the Secretary of Agriculture was considering a proposed rule to approve a budget of expenses for the Prune Administrative Committee for the 1953–54 crop year, and fix a rate of assessment for such year, as hereinafter set forth which were recommended by said committee in accordance with the provisions of Marketing Agreement No. 110, as amended, and Order No. 93, as amended (7 CFR, 1952 Rev., Part 993) regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) In said notice, opportunity was afforded all interested persons to file written data, views, or arguments with respect thereto. No such written data, views or arguments were filed, and the time for doing so has expired.

After consideration of all matters pertaining thereto, including the recommendations of the Prune Administrative Committee, it is hereby found and determined, and it is, therefore, ordered, that the budget of expenses for the Prune Administrative Committee, and the rate of assessment, for the crop year beginning August 1, 1953, shall be as follows:

§ 993.304 *Budget of expenses of the Prune Administrative Committee and rate of assessment for the 1953–54 crop year*—(a) *Budget of expenses.* Expenses in the amount of $84,483 are reasonable and are likely to be incurred by the Prune Administrative Committee for its maintenance and functioning for the crop year beginning August 1, 1953, and ending July 31, 1954.

(b) *Rate of assessment.* Each handler shall pay to the Prune Administrative Committee in accordance with provisions of § 993.50(e) of the marketing agreement, as amended, and order, as amended, an assessment of 63 cents for each ton of prunes received by him as the first handler thereof during the crop year beginning August 1, 1953, and ending July 31, 1954, which assessment rate is hereby fixed as each handler's pro rata share of the aforesaid expenses.

It is hereby found and determined that good cause exists for not postponing the effective time of the order with respect to the aforesaid budget of expenses and rate of assesment for 30 days, or any lesser period, after publication of it in the FEDERAL REGISTER (see sec. 4 (c) of the Administrative Procedure Act; 5 U. S. C. 1001 et seq.) in that: (1) The rate of assessment hereby fixed is applicable to all dried prunes received by handlers as the first handlers thereof during the current crop year; (2) handlers usually begin about August 15 to receive deliveries of dried prunes from producers which receipts are, by the terms of the amended marketing agreement and amended order subject to the assessments set forth hereinabove; (3) the Prune Administrative Committee should be enabled to obtain assessment funds promptly to defray expenses of administering the program; and (4) compliance with this section will not require any special preparation on the part of handlers.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Issued at Washington, D. C., this 20th day of August 1953, to become effective upon publication in the FEDERAL REGISTER.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

[F. R. Doc. 53-7465; Filed, Aug. 24, 1953; 8:50 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1953 CCC Cottonseed Bulletin 3, Revision 1]

PART 643—OILSEEDS

SUBPART—1953 COTTONSEED PRODUCTS PURCHASE PROGRAM

Correction

In Federal Register Document 53-7212, published at page 4875 of the issue for Saturday, August 15, 1953, the table in paragraph (a) (3) of § 643.918 should read:

DISCOUNTS FOR SPECIFIED LESS THAN PRIME QUALITY FACTORS

	Discount (cents per pound)		
	First-cut linters	Mill-run linters (grade basis)	Mill-run and I. c. d. linters (cellulose basis)
1. Excess pepper	0.70	0.50	0.00
2. Excesstrash:			
(a) Regular	.70	.50	.00
(b) XX	1.75	1.10	.35
3. Rollies	3.00	2.10	.00
4. Hot seed odor and color slight	3.40	2.40	1.10
5. Sour and musty odor slight	.85	.60	.35

[1953 CCC Peanut Bulletin, 721 (Peanuts—53)–1]

PART 646—PEANUTS

SUBPART—1953 CROP PEANUT PRICE SUPPORT PROGRAM

This bulletin contains the regulations applicable to the 1953 crop Peanut Price Support Program, under which the Secretary of Agriculture makes price support available through the Commodity Credit Corporation and Production and Marketing Administration (hereinafter referred to as "CCC" and "PMA", respectively).

Sec.
646.501 Administration.
646.502 Availability.
646.503 Methods of price support.
646.504 Definitions.
646.505 Support prices.
646.506 Price support schedule.
646.507 Eligible peanuts.
646.508 Eligible producer.
646.509 Type and grade.
646.510 Approved lending agencies.
646.511 Service charges and fees.
646.512 Interest rate.
646.513 Personal liability of the producer.
646.514 Payments and collections; amounts not exceeding $3.00.
646.515 Set-offs.
646.516 Purchase of notes.
646.517 Foreclosure.
646.518 Farm storage loan provisions.
646.519 Warehouse storage loan provisions.
646.520 Loans to cooperatives operating under an Agreement with CCC.

AUTHORITY: §§ 646.501 to 646.520 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C., Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C., Sup. 714c, 7 U. S. C. Sup. 1441, 1421.

§ 646.501 *Administration.* (a) The program will be administered by PMA, under the general direction and supervision of the Executive Vice President, CCC, and in the field, will be carried out by State committees, county committees, and PMA commodity offices.

(b) It will be the responsibility of the State committee in each State to carry out the provisions of the 1953 peanut program in such a manner that price support will be available to all eligible producers of eligible peanuts.

(c) Producers interested in participating in the program should communicate with their county committee.

(d) All documents in connection with farm storage and warehouse storage loans will be completed and approved by the county committee which keeps the farm program records. The county committee will retain copies of all such documents. The county committee may authorize the county office manager to prepare and approve any loan documents on behalf of the county committee.

(e) Cooperatives operating under a Cooperative Loan and Warehouse Agreement with CCC, CCC Peanut Form 27 (1953) (hereinafter referred to as an "Agreement with CCC") may receive, store and handle eligible peanuts for and on behalf of eligible producers, using such peanuts as collateral for a loan made available by CCC.

(f) State and county committees and PMA Commodity offices do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto.

§ 646.502 *Availability*—(a) *Areas.* The program will be available in the following areas:

(1) The Southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The Southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(b) *PMA Commodity Offices.* The PMA Commodity Offices and the States which they serve are as follows:

(1) Dallas PMA Commodity Office, Production and Marketing Administration, United States Department of Agriculture, 3306 Main Street, Dallas 26, Texas, serving the States of Arizona, California, New Mexico, Oklahoma, and Texas.

(2) New Orleans PMA Commodity Office, Production and Marketing Administration, United States Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans 16, Louisiana, serving the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Virginia.

(c) *Time.* Loans may be made through January 31, 1954. All loan documents on which the county committee's approval is required, must be dated and delivered to the county committee on or before January 31, 1954. Cooperatives operating under an Agreement with CCC must tender the required documents on or before January 31, 1954.

§ 646.503 *Methods of price support.* CCC will support the price of eligible 1953 crop quota peanuts through nonrecourse farm storage loans to eligible producers or cooperatives, nonrecourse warehouse storage loans to eligible producers or cooperatives who store peanuts in warehouses under contract with CCC, and nonrecourse loans to cooperatives operating under an Agreement with CCC.

§ 646.504 *Definitions.* As used in this subpart and in instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) *Cooperative.* A group of producers organized, in accordance with the provisions of the Capper-Volstead Act, for the purpose of handling peanuts for and on behalf of its producer members, which is approved as a cooperative within the State(s) in which it functions, and which is approved by CCC; *Provided,* That:

(1) The major portion of the peanuts handled by the cooperative are delivered to the cooperative by producer members;

(2) The members and any nonmembers for whom the cooperative handles peanuts share pro rata in the profits made from handling peanuts;

(3) The cooperative has the legal right to pledge or mortgage the peanuts which it receives from producers, and the producers have no right to redeem or obtain possession of their peanuts after delivery to the cooperative;

(4) The manager of the cooperative must not be engaged in the business of buying, selling, storing, or dealing in peanuts, other than in his capacity as manager of the cooperative or as a producer; and

(5) The cooperative shall maintain a record of the grades and quantity of each grade of peanuts received from each producer at each location, the names and addresses of the producers, the amounts advanced to such producers for such peanuts, any amounts paid to such producers as their pro rata shares of the net proceeds from handling such peanuts, and such other accounts and records as CCC may prescribe. All books, accounts and records shall be available to CCC for inspection at all reasonable times through a period of two years after the last of such peanuts are moved out of a warehouse operated by or under contract with the cooperative or out of a warehouse under contract with CCC.

(b) *County committee.* The persons elected within a county as the county committee, pursuant to the regulations governing the selection and functions of Production and Marketing Administration county and community committees.

(c) *County office.* The office of the county committee which keeps the records for the farm.

(d) *Excess moisture (for purposes of determining net weight)* The percentage of moisture in excess of 7 percent in the Southeastern and Southwestern areas and in excess of 8 percent in the Virginia-Carolina area.

(e) *Farm.* A farm as defined in the marketing quota regulations, and generally refers to all adjacent or nearby farmland which is operated as one farming unit.

(f) *Farm allotment.* The farm peanut acreage allotment for the 1953 crop of peanuts established pursuant to the marketing quota regulations.

(g) *Farmers stock peanuts.* Picked and threshed peanuts produced in the continental United States during the calendar year 1953, which have not been shelled, crushed, cleaned (except for removal of foreign material) or otherwise changed from the state in which picked and threshed peanuts are customarily marketed by producers.

(h) *Farm peanut acreage.* The 1953 farm peanut acreage determined in accordance with the marketing quota regulations, and generally refers to the total acreage of peanuts on the farm which is picked or threshed. In any case where a farm allotment is not established or is established at less than one acre the farm peanut acreage shall be deemed to be in excess of the farm allotment only if it exceeds one acre.

(i) *Grade.* The percentage of sound mature kernels, damaged kernels, other kernels, foreign material, moisture, and extra large kernels in the case of Virginia type peanuts.

(j) *Lot.* That quantity of eligible peanuts for which one inspection memorandum is issued.

(k) *Marketing quota regulations.* The Marketing Quota Regulations for 1953 Crop of peanuts issued by the Secretary of Agriculture, including any amendments or supplements thereto (17 F R. 10611, 18 F R. 1881, and 18 F R. 3316)

(l) *Net weight.* Gross weight, less foreign material and excess moisture. The net weight of any lot of farmers stock peanuts shall be determined as follows: (1) Deduct from the pounds gross weight the pounds of foreign material determined by multiplying the gross weight by the percentage of foreign ma-

terial; (2) multiply the result obtained in subparagraph (1) of this paragraph by the percentage of excess moisture; (3) subtract the result obtained in subparagraph (2) from that obtained in subparagraph (1) of this paragraph.

(m) *Operator* The person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(n) *Producer.* A person who, as landlord, tenant, or sharecropper, is entitled to share in the peanuts produced on the farm or in the proceeds thereof. A cooperative, as defined in this section, shall be considered a producer with respect to all eligible peanuts handled for and on behalf of eligible producers.

(o) *Quota peanuts.* Farmers stock peanuts which are within the amount of the farm marketing quota determined pursuant to the marketing quota regulations.

(p) *State committee.* The persons designated in a State by the Secretary of Agriculture as the State committee of the Production and Marketing Administration.

(q) *Within quota card.* MQ–76—Peanuts (1953) 1953 Peanut Within Quota Marketing Card. This card is issued for farms for which it is determined that the farm peanut acreage is not in excess of the larger of the farm allotment or one acre. This card authorizes the marketing of all peanuts produced on the farm without payment at the time of marketing of the penalty prescribed in the marketing quota regulations.

(r) *Type.* The generally known types of peanuts (i. e., Runner, Spanish, Valencia, and Virginia) shall be as defined in Marketing Quota Regulations for Peanuts of 1953 Crop, 1023 (Peanuts–53)–1 (18 F. R. 1881) (7 CFR Part 729) except that any peanuts which would otherwise be considered Virginia type but which contain less than 25 percent "Fancy" size (Peanuts riding a $^{34}/_{64}$ x 3 inch slotted screen) will be considered Runner type peanuts.

§ 646.505 *Support prices.* The minimum national average support price is $237.60 per ton. The support prices and loan rates by types, and the premiums and discounts with respect thereto, are contained in § 646.506.

§ 646.506 *Price support schedule.* The following Price Support Schedule applies to net weight farmers' stock peanuts eligible for price support. The prices are for peanuts in bulk in the Southeastern area and in bags in the Southwestern and Virginia-Carolina areas. The term "Southeastern Spanish" refers to Spanish-type peanuts produced east of the Mississippi River and the term "Southwestern Spanish" refers to Spanish-type peanuts produced west of the Mississippi River.

(a) *Base grade prices.* The base grade support prices for the various types and grades of peanuts shall be as follows:

	Per ton
Virginia type, 65 percent sound mature kernels	$229.00
Runner type, 65 percent sound mature kernels	213.00
Southeastern Spanish, 70 percent sound mature kernels	234.00
Southwestern Spanish, 70 percent sound mature kernels	230.00

(b) *Premiums and discounts*—(1) *Sound mature kernels.* For each one percent sound mature kernel content above or below the base grade, the premium or discount, whichever is applicable, shall be as follows:

	Per ton
Virginia type	$3.60
Runner type	3.30
Southeastern Spanish type	3.40
Southwestern Spanish type	3.30

The term "sound mature kernel" means kernels which are free from damage as defined in the U. S. Standards for farmers' stock (i) white Spanish peanuts in the case of Spanish and Valencia peanuts and (ii) Runner and Virginia peanuts, respectively, in the case of Runner and Virginia peanuts; and which will not pass through a screen having:

(*a*) $^{14}/_{64}$ x $^{3}/_{4}$ inch perforations in the case of Spanish peanuts.

(*b*) $^{15}/_{64}$ x 1 inch perforations in the case of Virginia peanuts, and

(*c*) $^{15}/_{64}$ x $^{3}/_{4}$ inch perforations in the case of Runner and Valencia peanuts.

(2) *Damaged kernels.* The discount for damage in excess of one percent shall be as follows per ton by types:

Peanuts containing damaged kernels of—	Virginia	Runners	Spanish	
			Southeastern	Southwestern
Percent				
2	$3.60	$3.30	$3.40	$3.30
3	7.20	6.60	6.80	6.60
4	12.60	11.55	11.90	11.55
5	19.80	18.15	18.70	18.15
6	27.00	24.75	25.50	24.75
7	37.80	34.65	35.70	34.65

Peanuts containing damaged kernels of 8 percent and over shall not be eligible for price support.

(3) *Foreign material.* The discount for each full one percent foreign material in excess of 4 percent and not over 12 percent shall be $1.00 per ton. However, no peanuts with more than 12 percent foreign material will be eligible for price support.

(4) *Extra-large kernels.* For Virginia-type peanuts the premium for each full one percent extra-large kernels in excess of 15 percent shall be $1.25 per ton. "Extra-large kernels" means any shelled Virginia peanuts which are whole and which are free from noticeably discolored or damaged peanuts as defined in the U. S. Standards for Shelled Virginia Peanuts (effective November 1, 1939) and which will not pass through a screen having $^{21.5}/_{64}$ x 1 inch perforations.

(c) *Other*—(1) *Virginia-type peanuts.* Any lot or load of peanuts which would otherwise be considered Virginia type but which contains less than 25 percent "Fancy" size (peanuts riding a $^{34}/_{64}$ x 3 inch slotted screen) will be considered Runner-type peanuts.

(2) *Valencia-type peanuts.* The support price for Valencia-type peanuts containing less than 25 percent discoloration and damage caused by cracked or broken shells shall be the same as the support price for Virginia-type peanuts of the same grade, except that no premium is applicable for extra-large Valencia kernels. For other Valencia-type peanuts the support price will be the same as the support price for Spanish peanuts of the same grade and in the same area.

§ 646.507 *Eligible peanuts.* Peanuts eligible for price support must meet the following requirements:

(a) Such peanuts must be 1953 crop farmers stock quota peanuts which contain 12 percent or less foreign material, 7 percent or less damaged kernels and not more than (1) 10 percent moisture when placed under a farm storage or identity-preserved warehouse storage loan, or (2) 9 percent moisture when delivered to CCC upon maturity of a warehouse storage loan or loan to a cooperative operating under an Agreement with CCC;

(b) (1) Such peanuts must be produced by an eligible producer on a farm (i) on which the 1953 farm peanut acreage does not exceed the larger of the 1953 allotment for such farm or one acre, or (ii) for which a within quota marketing card is issued to the producer or operator upon the execution of Form MQ–92—Peanuts (1953) "Agreement by Operator of Overplanted Farm, 1953 Peanut Program" in which he agrees (*a*) that the farm peanut acreage will not exceed the larger of the farm allotment or one acre, and (*b*) if such undertaking is breached to pay liquidated damages to CCC, determined in accordance with the terms of such agreement, and to pay any marketing penalties determined to be due the Secretary of Agriculture.

(2) The liquidated damages payable to CCC under such agreement may be waived to such extent as the President of CCC or his designated representative may determine appropriate in any case where he determines (i) that the breech of such agreement was unintentional and occurred despite a bona fide effort by the operator and other producers on the farm to comply with the agreement and (ii) that the amount by which the farm peanut acreage exceeded the acreage specified in the agreement was so small, in relation to the acreage so specified, that it did not materially impaid CCC's price support operations.

(3) Copies of Form MQ–92—Peanuts (1953) may be obtained from the county committee. The county committee may decline to execute Form MQ–92—Peanuts (1953) in any case where it finds reasonable grounds to believe that such agreement will be used as a device to evade the requirements of this program or the collection of marketing penalty.

(c) Such peanuts must be identified by a within quota marketing card in accordance with the marketing quota regulations;

(d) Such peanuts must be free and clear of all liens and encumbrances, including landlord's liens, or if liens or encumbrances exist on the peanuts, acceptable waivers must be obtained: *Provided, however,* That peanuts under a warehouse storage loan or a loan to a cooperative may be subject to liens for

warehouse charges specified in CCC Peanut Form 27 (1953) or in CCC Peanut Form 29 (1953)

§ 646.508 *Eligible producer* (a) A producer will be eligible for price support with respect to all eligible peanuts in which the beneficial interest is in him and has always been in him or in him and a former producer whom he succeeded before the peanuts were harvested.

(b) A cooperative will be considered an eligible producer with respect to eligible peanuts delivered to it by eligible producers who have the right to share ratably in its profits from handling such peanuts.

§ 646.509 *Type and grade.* Inspectors authorized or licensed by the Secretary of Agriculture shall determine the type and grade of all peanuts which are to be:

(a) Mortgaged as security for a farm storage loan, such type and grade to be determined on the basis of a sample taken by the county committee before the loan is made; but the settlement value of the mortgaged peanuts delivered in satisfaction of the loan will be computed on the basis of the grade determined at the time such peanuts are delivered;

(b) Stored in a warehouse under contract with CCC and for which a warehouse receipt is issued on CCC Peanut Form 30 (1953) or CCC Peanut Form 41, or other form approved by CCC, such type and grade to be determined at the time the peanuts are delivered to the warehouse;

(c) Delivered to CCC, or to any other holder of a warehouse receipt who requests inspection by an inspector authorized or licensed by the Secretary of Agriculture, from a warehouse under contract with CCC, such type and grade to be determined at the time the peanuts are loaded out of the warehouse;

(d) Received by a cooperative operating under an Agreement with CCC, such type and grade to be determined at the time the peanuts are delivered to the warehouse;

(e) Delivered to CCC by a cooperative operating under an Agreement with CCC, such type and grade to be determined at the time the peanuts are loaded out of the warehouse, unless another time is agreed to by CCC and the cooperative.

§ 646.510 *Approved lending agencies.* An approved lending agency shall be any bank, cooperative marketing association, corporation, partnership, individual, or other legal entity, with which CCC has entered into a Lending Agency Agreement on CCC Form 292 or other form prescribed by CCC.

§ 646.511 *Service charges and fees.* (a) Producers shall pay the following initial service charges on the quantity of peanuts placed under a farm storage or warehouse storage loan. An additional service charge (at the same rate) shall be paid on any additional quantity delivered to and accepted by CCC under a farm storage or identity-preserved warehouse storage loan. No refund of service charges will be made. State committees may, at their option, require a deposit on farm storage loans, such deposit to be applied against the service charge when the loan is granted.

Farm storage loans: 30 cents per ton—minimum charge of $3.00.

Warehouse storage loans: 15 cents per ton—minimum charge of $1.50.

(b) The producer or cooperative will pay the inspection fee applicable to the quantity of peanuts placed under a farm storage loan, warehouse storage loan, or loan to a cooperative operating under an Agreement with CCC. CCC will pay the inspection fee for loan collateral peanuts delivered to CCC.

(c) The producer, cooperative, or holder of the warehouse receipt will pay the warehouse storage charges on loan collateral, and will pay the warehouse receiving and handling charges on peanuts redeemed. Warehouse storage charges through May 31, 1954, will be deducted from the proceeds of any warehouse storage loan or loan to a cooperative operating under an Agreement with CCC.

(d) The service charges and fees specified in this section will be computed on gross weights.

§ 646.512 *Interest rate.* Farm and warehouse storage loans and loans to cooperatives who enter into a 1953 Cooperative Loan Agreement with CCC shall bear interest at the rate of 4 percent per annum from the date of disbursement of the loan, except that where there is a default in satisfaction of a loan on farm stored peanuts the deficiency (including accrued interest and costs incurred by the holder of the note) shall bear interest at the rate of 6 percent per annum from the date of default.

§ 646.513 *Personal liability of the producer* The making of any fraudulent representation in obtaining price support or the conversion or unlawful disposition of any portion of the peanuts by the producer may render such producer subject to criminal prosecution under the Federal Law and liable for the amount received by such producer (plus interest) and for any resulting expense incurred by any holder of the note.

§ 646.514 *Payments and collections; amounts not exceeding $3.* To avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less due a producer will be paid only upon request; and a deficiency of $3 or less, including interest, may be disregarded by a producer unless demand for payment is made by CCC.

§ 646.515 *Set-offs.* (a) If a producer (including a cooperative) who obtains a loan is indebted to CCC on any accrued obligation, or if any installment or installments on any loan made available by CCC on farm-storage facilities or mobile drying equipment are past due or are payable or prepayable under the provisions of the note evidencing such loan, out of the proceeds of the price support loan, such producer must designate CCC or the lending agency holding such note as the payee of the proceeds of the price support loan to the extent of such indebtedness or installments, but not to exceed that portion of the proceeds remaining after deduction of loan service charges and amounts due prior lienholders. If the producer is indebted to any other agency of the United States and such indebtedness is listed on the county debt register, such producer must designate such agency as the payee of the proceeds as provided in this section. Indebtedness owing to CCC or to a lending agency as provided in this section shall be given first consideration after claims of prior lienholders.

(b) Cooperatives operating under an Agreement with CCC shall deduct from their advance payments to producers and remit to the proper agency of the United States the amount of indebtedness as shown on the marketing cards presented at the time the peanuts are received.

(c) If a cooperative, which has not entered into a 1953 Cooperative Loan and Warehouse Agreement with CCC, obtains a loan on behalf of a producer who is indebted as provided in this section, such cooperative must specify the indebted producer's share of the loan and designate CCC, the lending agency, or other agency of the U. S. as the payee of the loan proceeds to the extent provided in this section.

(d) Compliance with the provisions of this section shall not constitute a waiver of any right of the producer to contest the justness of the indebtedness involved either by administrative appeal or by legal action.

§ 646.516 *Purchase of notes.* (a) The county committee, acting on behalf of CCC, will purchase from approved lending agencies notes evidencing approved farm storage or warehouse storage loans which are secured by chattel mortgages or the prescribed warehouse receipts. The purchase price will be the sum of the principal remaining due on such notes plus interest computed according to the lending agency agreement.

(b) Lending agencies are required to submit to the county committee CCC Form 500, CCC Form 238, or such other form as CCC may prescribe for all payments received on producers' notes held by them, and are required to remit to CCC a part of the interest collected, computed according to the lending agency agreement.

(c) Lending agencies shall submit notes and reports to the county office where the loan documents were approved.

§ 646.517 *Foreclosure.* If the loan is not satisfied upon maturity by payment or delivery of the peanuts, the holder of the note may remove the peanuts and sell them either by separate contract or after pooling them with other lots of peanuts similarly held. If the peanuts are pooled, the producer has no right of redemption after the date the pool is established, but shall share ratably in any overplus remaining upon liquidation of the pool. CCC shall have the right to treat the pooled peanuts as a reserve supply to be marketed under such sales policies as CCC determines will promote orderly marketing, protect the interests of producers and consumers, and not unduly impair the market for the

current crop of peanuts, even though part or all of such pooled peanuts are disposed of under such policies at prices less than the current domestic price. Any sum due the producer as a result of the sale of the peanuts or of insurance proceeds thereon, or any ratable share resulting from the liquidation of a pool, shall be payable only to the producer without right of assignment.

§ 646.518 *Farm storage loan provisions.* Loans will be available to eligible producers on eligible peanuts in approved farm storage. Producers who want to obtain such loans will apply at the office of the county committee which will arrange for inspection of the storage facilities and for inspection, sampling and grading of the peanuts. Upon determination that the producer, the peanuts, and the storage facilities meet the requirements therefor, the county committee will determine the amount of the loan and prepare and approve the loan documents. After the loan documents are approved, the producer may obtain the loan from any approved lending agency or from CCC through the county committee. The producer may deliver the peanuts to CCC upon maturity of the loan, or may redeem the peanuts at any time prior to such delivery by repaying the amount of the loan plus interest and charges.

(a) *Approved farm storage.* Approved farm storage shall consist of storage structures located on or off the farm (excluding public warehouses) which are determined by the county committee to be so located and of such substantial and permanent construction as to afford safe storage of peanuts. Such structure shall be dry and well-ventilated.

(b) *Method of determining quantity—* (1) *Peanuts placed under loan.* The net weight of the peanuts to be placed under a farm storage loan will be calculated from an estimated gross weight determined as provided in this section. A 5 percent minimum reduction in such estimated gross weight is required in an effort to avoid underdelivery at maturity in the event the loan is not repaid.

(i) *Peanuts stored in bulk.* The gross weight of bulk peanuts placed under a farm storage loan may be determined either by weight or by measurement. When the quantity is determined by measurement, the gross weight will be computed on the number of pounds per cubic foot for the type of peanuts indicated below (such number of pounds having been reduced by approximately 5 percent from the estimated actual weight)

Type:	*Weight per cu. ft. (pounds)*
Runner	17.0
Spanish	19.0
Valencia	17.0
Virginia	12.0

If the gross weight of bulk peanuts is determined by actual weight instead of by measurement, deduct from such weight an amount specified by the State committee, which amount shall be not less than 5 percent of such gross weight.

(ii) *Peanuts stored in bags.* The approximate gross weight of all the peanuts to be placed under loan shall be determined by weighing all of the bags or by weighing a sufficient number of bags to estimate the gross weight of all the bags, and then deducting an amount specified by the State committee, which amount shall be not less than 5 percent of such gross weight.

(2) *Peanuts delivered to CCC at maturity.* The gross weight of peanuts delivered to CCC upon maturity of the loan shall be determined by actual weight at the time of delivery.

(c) *Forms.* Loan forms shall consist of Commodity Loan Form A, Producer's Note and Supplemental Loan Agreement, secured by Commodity Loan Form AA, Commodity Chattel Mortgage, and such other forms and documents as may be required by CCC. Commodity Loan Forms A and AA must have State and documentary revenue stamps affixed thereto where required by law. Loan documents executed by an administrator, executor, or trustee, will be acceptable only where legally valid.

(d) *Disbursement.* Disbursement of farm storage loans will be made by approved lending agencies or by the county committee who will issue sight drafts on CCC. Disbursement, regardless of where made, shall not be made after February 15, 1954, unless authorized by the Executive Vice President, CCC. Payment in cash, credit to the producer's account, or the drawing of a check or draft shall constitute disbursement. The date of such draft, check, credit, or cash payment shall be considered as the date of disbursement of the funds. The producer shall not present the loan documents for disbursement unless the peanuts are in existence and in good condition. If the peanuts are not in existence or not in good condition at the time of disbursement, the proceeds shall be promptly refunded by the producer. In the event the amount disbursed exceeds the amount authorized, the producer shall be personally liable for repayment of the amount of such excess.

(e) *Insurance.* CCC will not require the borrower to insure the peanuts placed under a farm-storage loan. However, if a borrower does insure such peanuts and an insurance indemnity is paid thereon, the insurance proceeds must be paid to CCC to the extent of its interest, after first satisfying the borrower's equity in the peanuts involved in the loss.

(f) *Safeguarding the peanuts.* The producer who obtains a farm storage loan is obligated to maintain the storage structure in good repair and to keep the peanuts in good condition until the loan is liquidated.

(g) *Loss or damage to the peanuts under farm storage loan.* (1) The producer is responsible for any loss in grade and for any loss in weight, except that, subject to the provisions of paragraph (e) of this section, CCC will assume physical loss or damage occurring after disbursement of the loan funds without fault, negligence or conversion on the part of the producer, warehouseman or any other person having control of a storage structure not located on the farm, provided such loss or damage (1) resulted solely from an external cause other than insect infestation, and the producer gave the county committee immediate notice in writing of such loss or damage, or (2) resulted from insect damage occurring after the producer has given the county committee notice in writing of the presence of worms or weevils and the county committee has by inspection verified the presence of worms or weevils. Losses under the provisions of this subsection will be assumed by CCC to the extent of the settlement value of the quantity destroyed or in an amount equivalent to the extent of the damage, as determined by CCC, provided there has been no fraudulent misrepresentation made by the producer in the loan documents or in obtaining the loan.

(2) No physical loss or damage occurring prior to disbursement of the loan funds will be assumed by CCC.

(h) *Redemption of the peanuts under farm storage loan.* A producer may, at any time prior to the date on which the peanuts are delivered to or removed by CCC pursuant to paragraph (i) of this section, redeem the peanuts remaining under farm storage loan by paying to the holder of the note and supplemental loan agreement, the principal amount thereof, plus charges and accrued interest. All charges in connection with the collection of the note shall be paid by the producer. Upon presentation of evidence of payment, the county committee shall arrange for the release of the chattel mortgage. Partial release of the peanuts prior to maturity may be arranged with the county committee by making payment to the holder of the note for the quantity of peanuts released, plus charges and accrued interest; however, if the quantity of peanuts contained in the bin or crib and covered by the chattel mortgage is greater than the quantity with respect to which the amount of the loan was computed, application may be made to the county committee for release of all or part of such excess without payment on the loan.

(i) *Settlement of farm storage loans.* (1) The producer is required to pay off the loan on or before maturity or to deliver the peanuts in accordance with instructions issued by the county committee. If the producer fails to deliver mortgaged peanuts as instructed, he will be responsible for all costs of removal by the holder of the note.

(2) If the peanuts are or are in danger of going out of condition, the producer shall notify the county committee which shall determine whether the peanuts must be delivered before the maturity date of the loan. If CCC is unable to take delivery within a reasonable length of time, the producer may request and obtain through the county committee an inspection and grade determination to be made at the expense of CCC. When delivery is completed, settlement shall be made on the basis of such grade or the grade determined at the time of delivery, whichever is higher.

(3) In the event the farm is sold or there is a change of tenancy, the peanuts may be delivered before the maturity date of the loan, upon prior approval by the county committee. Peanuts also may be delivered before the maturity

date of the loan for other reasons upon authorization by the Executive Vice President, CCC.

(4) Settlement for peanuts delivered to CCC will be made, subject to the provisions of the Producers Note and Supplemental Loan Agreement, at the applicable support price for the type, grade (except as provided above for peanuts going out of condition) and quantity, plus an allowance of four-tenths of a cent ($0.004) per pound delivered for shrinkage during the storage period, of the peanuts delivered and accepted by the county committee: *Provided, however* That the settlement value for peanuts delivered to CCC which do not meet the eligibility requirements with respect to moisture, damage or foreign material shall be determined at the support price for the grade placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade placed under loan and the market price of the peanuts delivered, as determined by CCC. Delivery of peanuts in bulk will be accepted only from the structure(s) in which the peanuts under loan are stored. In the case of peanuts stored in bags, only the identical bags under loan may be delivered.

§ 646.519 *Warehouse storage loan provisions.* Loans will be available to eligible producers on eligible peanuts stored in approved storage and represented by negotiable warehouse receipts described in paragraph (a) of this section. A producer (other than a cooperative who enters into an Agreement with CCC) who wants to obtain a warehouse storage loan will deliver his peanuts to the warehouse for storage, present his within quota card to the warehouseman, and inform the warehouseman that the peanuts are to be placed under loan. The producer will take his warehouse receipts to the county office where the loan documents will be prepared and approved. After such documents are approved, he may obtain the loan from an approved lending agency or from CCC through the County committee. At any time prior to maturity the producer may redeem all or part of the peanuts under loan by repaying the loan with respect to the warehouse receipts for the peanuts being redeemed, plus interest and charges. Peanuts not redeemed will be delivered to CCC upon maturity of the loan.

(a) *Approved storage and warehouse receipts.* (1) Approved storage for peanuts under warehouse storage loans will be warehouses under a Peanut Storage Contract, CCC Peanut Form 29, with CCC. The names and locations of such warehouses may be obtained from the county office, the State committee, or the PMA Commodity Office. The warehouseman is authorized, by the terms of such contract, to commingle in storage all peanuts of one type which meet certain requirements with respect to foreign material and damaged kernel content, irrespective of ownership and without regard to the fact that the peanuts may be under loan.

(2) The negotiable warehouse receipts, representing peanuts in approved storage and acceptable as loan collateral, issued to producers by the warehouseman on CCC Peanut Form 30 (1953) or other form approved by CCC, must meet the following requirements:

(i) Be issued in the name of the producer (other than a cooperative operating under agreement with CCC) be properly endorsed so as to vest title in the holder; must represent eligible peanuts actually in store in the warehouse described on the receipts; and must indicate that peanuts stored commingled are insured.

(ii) Show the gross weight and net weight of the peanuts at the time of receipt into the warehouse, the type and grade of such peanuts as determined by inspectors authorized or licensed by the Secretary of Agriculture, and the dollar value thereof computed on the basis of the price support schedule in § 646.506. A warehouse receipt for commingled peanuts must also contain the warehouseman's guarantee to deliver a quantity of peanuts of the same type and segregation, containing 9 percent or less moisture, and equal in dollar value (computed on the basis of the outweight, outgrade, and the price support schedule) to not less than the amount specified on the warehouse receipt.

(iii) If the peanuts are stored identity preserved, describe such peanuts sufficiently so that they may be readily identified at all times, and the producer must execute the supplemental certificate prescribed in paragraph (b) of this section.

(iv) State such other terms and conditions as are required in CCC Peanut Form 29, and may be subject to liens for warehouse charges specified in such contract.

(b) *Supplemental certificate for peanuts stored identity preserved.* Each warehouse receipt, representing peanuts under loan stored in an approved warehouse on an identity preserved basis, must be accompanied by a supplemental certificate, properly identified with the warehouse receipt, executed by the producer and containing the producer's agreement to accept responsibility for loss or damage to the peanuts to the same extent as that provided in § 646.518 (g) for peanuts under farm storage loan.

(c) *Method of determining quantity.* The gross weight of peanuts placed under a warehouse storage loan shall be determined by actual weight at the time the peanuts are received into the warehouse; and the gross weight of peanuts delivered to CCC after the maturity date of the loan shall be determined by actual weight of the peanuts loaded out of the warehouse.

(d) *Forms.* Loan forms shall consist of Commodity Loan Form B, Producer's Note and Loan Agreement, the warehouse receipts which serve as security for such note and loan agreement, and such other forms and documents as may be required by CCC. All peanuts pledged as security for a loan on one Note and Loan Agreement must be stored in the same warehouse. State and documentary revenue stamps must be affixed to CL Form B where required by law. Loan documents executed by an administrator, executor, or trustee, will be acceptable only where legally valid.

(e) *Disbursement.* Disbursement of warehouse storage loans will be made in the same manner as that provided for farm storage loans in § 646.518 (d)

(f) *Insurance.* (1) Peanuts stored commingled must be insured against loss or damage by fire and extended coverage risks.

(2) Insurance will not be required on peanuts stored identity preserved in a warehouse. However, if the peanuts are insured, any indemnity paid shall inure to the benefit of CCC to the extent of its interest, after first satisfying the producer's equity in the peanuts involved in the loss. CCC will relieve the producer from liability for uninsured physical loss or damage for peanuts stored identity preserved in a warehouse to the same extent as that provided in § 646.518 (g) with respect to farm storage loans.

(g) *Redemption of peanuts under warehouse storage loan.* A producer may, at any time prior to maturity, redeem peanuts under loan by paying to the holder of the Note and Loan Agreement the principal amount of the loan, plus charges and accrued interest, with respect to the warehouse receipts for the peanuts to be redeemed. All charges in connection with the collection of the note shall be paid by the producer. Upon payment, the holder of the note will release the warehouse receipts to the producer.

(h) *Settlement of warehouse storage loans.* (1) If the producer does not repay the loan by maturity, CCC shall have the right to sell or pool the peanuts represented by outstanding warehouse receipts in satisfaction of the loan in accordance with the provisions of the Note and Loan Agreement and § 646.517. Any payment due a producer at the time of settlement will be made by sight draft on CCC by the county office, except that any payment due the producer because of any overplus realized by CCC through its selling or pooling operations (as set forth in the Note and Loan Agreement) will be made by the appropriate PHA Commodity Office.

(2) In the case of peanuts stored identity preserved, if the producer does not repay the loan by maturity CCC shall obtain, at its expense, weight and grade certificates for the purpose of settling with the producer for any differences in quantity, type, and grade. The weight shall be determined by the warehouseman or weighmaster approved by CCC and the type and grade shall be determined by inspectors authorized or licensed by the Secretary of Agriculture. Any such settlement shall include any allowance for loss or damage provided in paragraph (f) of this section and an allowance for shrinkage during the storage period in the amount of 4/10 of a cent ($0.004) per pound shown in such weight certificate: *Provided, however,* That such allowance for shrinkage shall not be applied so as to increase the settlement value above the amount of the loan.

§ 646.520 *Loans to cooperatives operating under an Agreement with CCC.* A cooperative, which desires to receive,

store and handle peanuts for and on behalf of producers who have the right to share ratably in its profits from the handling of such peanuts, may obtain a loan on all eligible peanuts handled on behalf of eligible producers, stored in approved warehouses, and represented by warehouse receipts in a form prescribed by CCC. Such loan will be made pursuant to the terms of the Cooperative Loan and Warehouse Agreement, CCC Peanut Form 27 (1953) between the cooperative and CCC. The cooperative may receive eligible peanuts from eligible producers who are not members of the cooperative and use such peanuts as loan collateral. The cooperative may obtain the loan from an approved lending agency or from CCC. Each producer from whom the Cooperative receives peanuts must present his within quota card at the time he delivers the peanuts for storage. For each lot of peanuts received, the cooperative shall make an advance payment to the producer in an amount mutually agreeable to the producer and the cooperative. At any time prior to maturity, the cooperative may redeem peanuts by repaying the loan with respect to the warehouse receipts for such peanuts, plus interest and charges. Peanuts redeemed may be marketed by the Cooperative without restriction by CCC. The cooperative shall distribute on a fair and equitable basis to the producers from whom it receives peanuts all proceeds from the handling of such peanuts under loan, less operating expenses, in the form of cash, or credit to the producer's account, unless other disposition of such proceeds or receipts is approved by CCC.

(a) *Approved storage and warehouse receipts.* (1) Approved storage for peanuts under loan will be warehouses approved by CCC and operated by the cooperative, warehouses approved pursuant to instructions issued by CCC and operated under contract with the cooperative, and warehouses operated under a Peanut Storage Contract, CCC Peanut Form 29 (1953) with CCC. The names and locations of such warehouses may be obtained from the cooperative, the county office, the State committee or the PMA Commodity office.

(2) Warehouse receipts, for peanuts stored by a cooperative under the Agreement and acceptable as loan collateral, shall be non-negotiable receipts issued to CCC on CCC Peanut Form 41, or other form approved by CCC, and must represent eligible peanuts actually in store in the warehouses described on the receipts. Each such receipt must show the gross weight and net weight of the peanuts at the time of receipt into the warehouse, the type and grade of such peanuts as determined by inspectors authorized or licensed by the Secretary of Agriculture, and the dollar value thereof computed on the basis of the price support schedule in § 646.506. The warehouse receipt must also contain the warehouseman's guarantee to deliver a quantity of peanuts of the same type and segregation, containing 9 percent or less moisture, and equal in dollar value (computed on the basis of the outweight, outgrade, and the price support schedule) to not less than the amount specified on the warehouse receipt. The warehouse receipt will show the amount of the loan to the cooperative on the peanuts represented by the receipt, will contain such other terms and conditions as are required by the Cooperative Loan and Warehouse Agreement, and may be subject to liens for warehouse charges specified in such Agreement.

(b) *Method of determining quantity.* The gross weight of peanuts placed under a cooperative loan shall be determined by actual weight at the time the peanuts are received into the warehouse; and the gross weight of peanuts delivered to CCC after the maturity date of the loan shall be determined by actual weight of the peanuts loaded out of the warehouse.

(c) *Forms.* Loan forms shall consist of the 1953 Crop Peanut Cooperative Loan and Warehouse Agreement, CCC Peanut Form 27 (1953) a blanket note, the warehouse receipts which serve as security for the Agreement and note, and such other forms and documents as may be required by CCC.

(d) *Disbursement.* Loans to cooperatives will be disbursed by approved lending agencies or by PMA Commodity Offices, on the basis of the loan value shown on the warehouse receipts.

(e) *Insurance.* Insurance will not be required on peanuts stored in approved warehouses operated by or under contract with the cooperatives. However, if such peanuts are insured, the policy shall provide that any indemnity paid thereon shall inure to CCC to the extent of its interest. Peanuts stored commingled in warehouses under a Peanut Storage Contract with CCC must be insured against loss or damage by fire or extended coverage risks.

(f) *Redemption of peanuts under a cooperative loan.* At any time prior to maturity, the cooperative may redeem peanuts under loan by repaying the loan value of the warehouse receipts representing the quantity being redeemed, plus a proportionate part of the interest due under the loan; or the cooperative may request that peanuts be released on a trust receipt pursuant to the terms of the Cooperative Loan and Warehouse Agreement. Any collection charges shall be paid by the cooperative.

(g) *Loans called.* At any time during the loan period CCC or the lending agency shall have the right to call the loan on peanuts represented by one or more warehouse receipts subject to sales commitments previously made by the cooperative, in which event proper credits shall be made to the loan account.

Issued this 20th day of August 1953.

[SEAL] HOWARD H. GORDON,
Executive Vice President,
Commodity Credit Corporation.

Approved:

JOHN H. DAVIS,
President,
Commodity Credit Corporation.

[F. R. Doc. 53-7462; Filed, Aug. 24, 1953; 8:50 a. m.]

No. 166——2

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

PART 190—AUTHORIZATION OF NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 19th day of August 1953.

With the enactment of Public Law 225, approved August 8, 1953, by the President of the United States, the Civil Aeronautics Board once again assumes the responsibility for the issuance of authorizations for flight in the United States of foreign civil aircraft under the Air Commerce Act of 1926. The Board is issuing this regulation at this time so that there will be as little interruption as possible in the administration of the provisions of this act and so that flight authorizations issued by the Administrator of Civil Aeronautics prior to the promulgation of this amendment will be continued in force in accordance with their terms.

In addition to transferring the responsibility for issuing flight authorizations to foreign civil aircraft under the terms of section 6 of the Air Commerce Act, the amendment to that act effected by Public Law 225 made certain changes in the basic law so as to accord more fully with the provisions of the Chicago Convention and to reflect the present needs of aviation in the United States in regard to the entry of foreign aircraft otherwise than in air transportation. Public Law 225 makes it clear that aircraft operated by holders of permits issued under section 402 of the Civil Aeronautics Act of 1938 will require no further authorization under the Air Commerce Act to navigate in the United States in respect of operations specifically authorized by the foreign air carrier permit, and consequently such operations are not governed by this regulation.

In issuing this regulation it is the purpose of the Board to maintain for the time being the same basic principles of administration of the act as formerly applied by the Administrator. It will be noted, however, that the authorization for flight of foreign civil aircraft in the United States now takes the form of a regulation instead of individual permits in each case. Permits will still be required for foreign aircraft flights operating into the United States for remuneration or hire, carrying cargo, passengers, or mail.

For the first time since the enactment of the Air Commerce Act of 1926 foreign registered aircraft may be authorized to engage in domestic commerce of the United States, provided that no persons, property or mail are carried between any two United States points. The purpose of this change is to permit foreign aircraft, in cases where the Board determines that it is in the interest of the public of the United States, to engage in industrial and agricultural operations. For the time being the Board does not intend to issue any blanket authority to engage in these operations, but will con-

sider each specific request for permission so to operate on its merits.

Since Public Law 225 became effective upon the approval of the President, public notice and procedures on this regulation are impractical and contrary to the public interest and the regulation must be made effective immediately. However, the Board recognizes that many of the provisions herein contained are novel and may present difficulties to the industry. Consequently, the Board is adopting this part as a temporary measure only, with a termination date of December 1, 1953.

Prior to November 1, 1953, the Board will reconsider the entire part and the problems presented by the navigation of foreign civil aircraft into the United States otherwise than pursuant to a foreign air carrier permit issued under section 402 of the Civil Aeronautics Act.

Interested persons may participate in the making of the final rule through the submission of written data, views or arguments pertaining thereto, in triplicate, addressed to the Secretary, Civil Aeronautics Board, Washington 25, D. C. All pertinent material in communications received on or before October 1, 1953 will be considered by the Board before taking final action on the proposed rule. Copies of comments received will be available for inspection on and after October 5, 1953 in the Docket Section of the Board.

In consideration of the foregoing, the Civil Aeronautics Board advises that the issuance of Part 190 in the form set forth below, to the extent therein provided, is in the interest of the public and consistent with treaties, conventions and agreements which are in force between the United States and foreign countries.

Accordingly, the Civil Aeronautics Board hereby amends the Civil Air Regulations (14 CFR Chapter I) effective August 19, 1953, by adding thereto a new part numbered 190 to read as follows:

SUBPART A—GENERAL

Sec.
190.1 Applicability.
190.2 Definitions.
190.3 Existing permits.
190.4 Expiration date.

SUBPART B—AUTHORIZATION

190.10 Civil aircraft registered in ICAO member states.
190.11 Civil aircraft registered in non-ICAO member states.

SUBPART C—RULES GENERALLY APPLICABLE TO THE NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

190.20 Airworthiness and registration certificates.
190.21 Airmen.
190.22 Flight operations.
190.23 Maximum allowable weights.
190.24 Entry and clearance regulations.

SUBPART D—UNAUTHORIZED OPERATIONS

190.30 Cabotage.
190.31 Stopovers.
190.32 Air transportation.

SUBPART E—ADDITIONAL LIMITATIONS APPLICABLE TO PARTICULAR CLASSES OF OPERATION

190.40 Operations not for remuneration or hire.
190.41 Demonstration flights of foreign aircraft.
190.42 Agricultural and industrial operations.
190.43 Flight instruction.
190.44 Transit flights; irregular operations.
190.45 Transit operations; scheduled international air service.
190.46 Commercial transport operations not in air transportation.
190.47 Reports to be filed.
190.48 Contents of reports.
190.49 Keeping of records.

SUBPART F—PENALTIES

190.50 Penalties.

SUBPART G—SPECIAL AUTHORIZATION

190.60 Special authorization.

AUTHORITY: §§ 190.1 to 190.60 issued under Pub. Law 225, 83d Cong.

SUBPART A—GENERAL

§ 190.1 *Applicability.* The regulations prescribed in this part authorize, to the extent that authorization is required pursuant to section 6 (b) of the Air Commerce Act of 1926, as amended, the navigation of foreign civil aircraft within the United States and specify the extent to and the terms and conditions under which various classes of flight operations by such foreign aircraft may be conducted in the United States. The regulations in this part do not apply to operations in foreign air transportation conducted under the authority of a foreign air carrier permit issued pursuant to section 402 of the Civil Aeronautics Act.

§ 190.2 *Definitions.* As used in this part:

(a) "Administrator" means the Administrator of Civil Aeronautics.

(b) "Air commerce" means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft in furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business.

(c) "Board" means the Civil Aeronautics Board.

(d) "United States" means the territory comprising the several States, Territories, possessions, and the District of Columbia (including the territorial waters thereof) any part thereof, and the overlying airspace; but shall not include the Canal Zone.

§ 190.3 *Existing permits.* Foreign flight permits issued prior to August 11, 1953, by the Administrator are hereby ratified and confirmed and shall continue in effect in accordance with their terms until the expiration date stated in each such permit, unless sooner specifically terminated or revoked by the Board. Navigation of foreign aircraft in the United States by holders of such permits shall be conducted pursuant to the terms, conditions, and limitations therein contained, and the provisions of this part (except subpart A) shall not apply to such operations during the life of such permits.

§ 190.4 *Expiration date.* This part and all authorizations under this part shall terminate December 1, 1953, except as the Board may otherwise provide.

SUBPART B—AUTHORIZATION

§ 190.10 *Civil aircraft registered in ICAO member states.* Subject to the observance of the applicable rules, conditions, and limitations set forth in this part, foreign civil aircraft registered in any foreign country which at the time is a member of the International Civil Aviation Organization created by the Chicago Convention may be navigated in the United States.

§ 190.11 *Civil aircraft registered in non-ICAO member states.* Aircraft registered under the laws of foreign countries, not members of the International Civil Aviation Organization created by the Chicago Convention, which the Board has found grant reciprocal treatment to U. S. aircraft and airmen, may be navigated in the U. S. subject to the observance of the same rules, conditions, and limitations applicable in the case of aircraft of ICAO member states.

NOTE: At the time of publication of this part it has been determined that the following countries, not member states of ICAO, afford reciprocity to U. S. aircraft and airmen: Costa Rica, Ecuador, Morocco, New Hebrides, Panama, Portuguese Colonies, Saudi Arabia, and Uruguay.

SUBPART C—RULES GENERALLY APPLICABLE TO THE NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNTITED STATES

§ 190.20 *Airworthiness and registration certificates.* Foreign aircraft shall carry aboard currently effective certificates of registration and airworthiness issued or rendered valid by the country of registry and shall display the nationality and registration markings of that country.

§ 190.21 *Airmen.* Each member of the flight crew of a foreign aircraft shall have in his personal possession a valid airman certificate or license authorizing him to perform his assigned functions in the aircraft and for the operation involved issued or rendered valid by the country of registry of the aircraft or by the United States. No such flight crew member shall perform any flight duty within the United States which he is not currently authorized to perform in the country issuing or validating the certificate.

§ 190.22 *Flight operations.* Flight of foreign aircraft in the United States shall be conducted in accordance with the current applicable Civil Air Regulations and with regulations of the Administrator under Title XII of the Civil Aeronautics Act of 1938, as amended. Without limiting the generality of the foregoing, the following conditions are specified with respect to the following operations:

(a) *VFR operations.* Flight shall be conducted in accordance with the visual flight rules of Part 60, Air Traffic Rules, and the applicable sections of Part 43, General Operation Rules, of this chapter.

(b) *IFR operations.* Flight shall be conducted in aircraft equipped with (1) radio equipment which will permit two-way radio-telephone communication with Civil Aeronautics Administration air traffic control while the aircraft is in

a control zone or control area, and (2) a radio navigational device suitable for use with the type of ground aids upon which navigation is to be predicated. No such instrument flight shall be conducted unless every pilot operating the aircraft in the United States possesses a United States instrument rating or is authorized by his foreign airman certificate to engage in instrument flight and has thoroughly familiarized[1] himself with the United States en route, holding and let-down procedures. It must be possible to conduct two-way radio-telephone communication in the English language between his aircraft and ground communication stations. Instrument flight shall be performed in accordance with the instrument flight rules of Part 60, and the applicable sections of Part 43 of this chapter. Entry into and exit from the United States under instrument conditions shall be in accordance with instructions issued by the appropriate area airway traffic control center. Instrument operations into all airports shall be conducted in accordance with the instrument approach procedures and weather minimums in Part 609 of Chapter II of this title, and published in the Flight Information Manual of the Civil Aeronautics Administration.

(c) *Overwater operations.* A flight notification will be required for all flights conducted offshore (overwater) in accordance with the Supplementary Procedures for the pertinent ICAO regions.

NOTE: Information describing such requirements is found in separate publications for each ICAO region and may be obtained through the Civil Aeronautics Administration regional offices whose addresses are set forth in section 42 of the statement of the Civil Aeronautics Administration organization and functions. For example, the requirements for overwater flight in the Caribbean area are found in "Supplementary Procedures for Caribbean Region." For the purpose of these requirements, a flight notification may be a VFR flight plan.

[1] The highly developed system of air navigation aids, detailed traffic control procedures, and heavy instrument traffic in the United States require the most meticulous observance of air traffic control instructions. Any failure to observe such instructions can imperil not only the offending pilot and those aboard his aircraft, but other aircraft in the vicinity and persons and property on the ground as well. Operation of aircraft under instrument conditions by pilots who are not thoroughly familiar with the workings of the air navigation aids being used or who cannot understand or are unable to follow traffic control instructions exactly presents such a hazard to life that it is considered gross negligence. Accordingly, any pilot who flies under instrument conditions in the United States without the required degree of familiarity will be considered in violation of § 60.12 of this chapter and subject to a civil penalty of up to $1,000. Foreign pilots are advised that agents of the Civil Aeronautics Administration in the United States and at many points abroad are available to help foreign pilots in this respect, and if such an agent is satisfied that the pilot concerned possesses the required degree of familiarity he will issue a letter so stating. Possession of such a letter addressed to the pilot concerned is considered to satisfy this requirement.

§ 190.23 *Maximum allowable weights.* Foreign aircraft shall not be operated within the United States at weights in excess of the maximum weights authorized by the country of manufacture of the aircraft type and model involved.

§ 190.24 *Entry and clearance regulations.* All applicable entry and clearance requirements for aircraft, passengers, crews, baggage, and cargo shall be followed.

SUBPART D—UNAUTHORIZED OPERATIONS

§ 190.30 *Cabotage.* A foreign aircraft shall not carry, for remuneration or hire, passengers, cargo, or mail originating at one point in the United States and destined for another point in the United States; nor shall such an aircraft carry, for remuneration or hire, between two points in the United States, passengers, cargo, or mail irrespective of the point of origin or destination of such traffic, except in connection with the through transportation thereof performed by the same operator to or from a point outside the United States.

§ 190.31 *Stopovers.* For the purpose of this part stopovers of reasonable length will not constitute a break in the transportation.

§ 190.32 *Air transportation.* Nothing in this part shall authorize any foreign aircraft to engage in air transportation as defined in the Civil Aeronautics Act of 1938, as amended.

SUBPART E—ADDITIONAL LIMITATIONS APPLICABLE TO PARTICULAR CLASSES OF OPERATIONS

§ 190.40 *Operations not for remuneration or hire.* Foreign civil aircraft which are not engaged in the carriage of passengers, cargo or mail for remuneration or hire may be navigated into, out of, and within the United States, and may discharge, take on or carry between points in the U. S. any non-revenue traffic.

§ 190.41 *Demonstration flights of foreign aircraft.* Flight of foreign civil aircraft within the United States may be made for the purpose of demonstration for sale of the aircraft or any component thereof, provided no persons or cargo are carried for remuneration or hire.

§ 190.42 *Agricultural and industrial operation.* Foreign civil aircraft shall not be used for crop-dusting, pest control, pipeline patrol, banner towing, skywriting or similar uses unless special authorization is obtained from the Board and the operation is conducted in accordance with all applicable state and local laws and regulations.

§ 190.43 *Flight instruction.* Foreign civil aircraft shall not be used within the United States for the purpose of flight instruction for remuneration or hire: *Provided,* That, this restriction shall not prevent the giving of indoctrination training in the operation of the aircraft concerned to a buyer or his employees.

§ 190.44 *Transit flights; irregular operations.* Foreign civil aircraft carrying persons, property, or mail for remuneration or hire but not engaged in scheduled international air services are authorized to navigate non-stop across the territory of the U. S. and to make stops for non-traffic purposes. Such aircraft shall not make stops for the purpose of taking on or discharging passengers, cargo or mail, or for other than strictly operational purposes. Stopovers for the convenience or pleasure of the passengers are not authorized under this section. The most reasonably direct route across the United States, consistent with operational and meteorological needs, shall be followed.

§ 190.45 *Transit operation; scheduled international air service.* Prior to engaging in any scheduled transit operation of foreign aircraft over the United States, the operator of the proposed service shall submit to the Board for approval a statement of the route proposed to be flown over the United States. No scheduled transit flight may be operated by such international air service otherwise than over the route or routes so approved and in compliance with Part 44 of this chapter. No stops other than for strictly operational reasons may be made, and aircraft engaged in such service shall not take on or disembark passengers, property or mail, or permit stopovers of passengers within the United States.

§ 190.46 *Commercial transport operations not in air transportation.* Except for aircraft being operated under a permit issued by the Board pursuant to section 402 of the Civil Aeronautics Act, foreign aircraft engaged in flights for remuneration or hire for the purpose of discharging or taking on passengers or cargo at one or more points in the United States may be navigated in the United States only if there is carried on board the aircraft a permit issued by the Board hereunder authorizing the operation involved. Carriage of cargo for the operator's own account is governed by these provisions if the cargo is to be resold or otherwise used in the furtherance of a business.

(a) *Application for permit.* Application for the permit specified in this section shall be submitted on CAB Form 272 to the Civil Aeronautics Board, addressed to the attention of the Director, Bureau of Air Operations: *Provided,* That, until November 1, 1953, Form ACA-776A may be used instead at the option of the applicant. There shall be enclosed with the application a copy of each contract between the operator and each person for whose account the flight or flights is or are to be performed. If any flight is to be performed in whole or in part for the account of the operator personally, there shall also be enclosed a full and complete description of the operation and copies of all contracts relating to the acquisition and disposition of the cargo. In any case, the beneficial owner of the cargo shall be disclosed. Copies of contracts covering proposed operations which have previously been filed with either the Civil Aeronautics Administration or the Board in connection with a prior application need not be filed again.

(b) *Issuance of permit.* If upon examination of the application, all supporting documents and other information available to it, the Board is of the opin-

ion that the application is in order and that the proposed operation either by itself or in conjunction with other operations of the operator to or from the United States is in the interest of the public and does not disclose any apparent violation of section 402 of the Civil Aeronautics Act of 1938 (52 Stat. 991, 49 U. S. C. 482) or any other applicable provision of law, it will issue a permit to the applicant authorizing the conduct of the flights set forth in the application, but not in excess of a period of three months.

(c) *Nature of privilege conferred by permit.* The provisions of this section and of any permit issued hereunder, together with section 6 (b) of the Air Commerce Act of 1926, as amended, are designed, among other purposes, to carry out the international undertakings of the United States in the Chicago Convention, in particular Article 5 thereof. That Article accords to foreign aircraft the privilege of "taking on or discharging passengers, cargo, or mail" subject to the right of the State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable. The Congress by the amendment to section 6 of the Air Commerce Act of 1926 approved by the President, has authorized the Board to permit such operations only where conditions of reciprocity and the interest of the public of the United States are met. It is incompatible with the interest of this legislation and the nature of the function involved to regard the operator of any foreign registered aircraft as entitled as a matter of right to the issuance, renewal, or freedom from modification or change in a permit issuable pursuant to this authority. Accordingly, any permit issued under this part may be withheld, revoked, amended, modified, restricted, suspended, withdrawn, or cancelled by the Board in the interest of the public of the United States, without notice or hearing and without the right in the holder to challenge the Board's discretion.

§ 190.47 *Reports to be filed.* Holders of permits issued under § 190.46 shall submit to the Board a report of flights conducted pursuant thereto. The initial report shall be submitted not later than the 30th day following commencement of operations and shall report on all flights conducted during such period. Like reports shall be filed for each succeeding 30-day period. Failure to submit a report on time shall constitute grounds for revocation, refusal to renew the permit, or denial of the issuance of a new permit.

§ 190.48 *Contents of reports.* The report of flights shall give a brief summary of each of the flights performed, setting forth the quantity and type of traffic carried and the names and addresses of the persons for whose account the transportation was furnished.

§ 190.49 *Keeping of records.* Each holder of a permit issued under § 190.46 shall keep true copies of all manifests; air waybills, invoices and other traffic documents covering flights originating in the United States and shall maintain a place in the United States where such documents may be inspected at any time by authorized representatives of the Board or the Civil Aeronautics Administration: *Provided,* That, records of flights conducted pursuant to a permit authorizing less than 10 flights in a three-month period need not be maintained in the United States, but shall be made available to the Board upon demand. Failure to comply with the requirements of this section shall be cause for the suspension, revocation, refusal to renew or denial of the issuance of a new permit.

SUBPART F—PENALTIES

§ 190.50 *Penalties.* The operation of a foreign aircraft within the United States in violation of the provisions of this part constitutes a violation of section 501 of the Civil Aeronautics Act of 1938, 52 Stat. 1005, 49 U. S. C. 521, and may, in addition, constitute a violation of the Civil Air Regulations. Such operation makes the person or persons responsible for the violation or violations subject to a civil penalty as provided in section 901 of the Civil Aeronautics Act (52 Stat. 1015, 49 U. S. C. 621) and to the alteration, amendment, modification, suspension or revocation of any permit issued under this part and of any United States certificate involved as provided in section 609 of the Civil Aeronautics Act (52 Stat. 1011, 49 U. S. C. 559) Engaging in air transportation as defined in the aforesaid Civil Aeronautics Act by a foreign aircraft without a foreign air carrier permit issued pursuant to section 402 of that act (52 Stat. 991, 49 U. S. C. 482) or in violation of the terms of such a permit constitutes not only a violation of this regulation but of the Civil Aeronautics Act as well, which entails a criminal penalty as set forth in section 902 (52 Stat. 1015, 49 U. S. C. 622) of that act.

SUBPART G—SPECIAL AUTHORIZATION

§ 190.60 *Special authorization.* Any person desiring to navigate a foreign civil aircraft within the United States otherwise than as specifically provided in this part may petition the Board for an order authorizing the particular flight or series of flights. Such an order may be issued only if the Board finds that the proposed operation is fully consistent with applicable law and is in the interest of the public of the United States.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 53-7461; Filed, Aug. 24, 1953; 8:49 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 43]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

MISCELLANEOUS AMENDMENTS

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 610 is amended as follows:

1. In § 610.5 *Minimum en route IFR altitudes along particular routes* the footnote is amended by adding a Cambridge intersection to read:

Cambridge intersection: [1] The intersection of the 200° magnetic radial Emporia, Kansas, VOR and the 070° magnetic radial Anthony, Kansas, VOR.

2. Section 610.14 *Green civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Tucumcari, N. Mex. (LFR).	Amarillo, Tex. (LFR).	5,500

3. Section 610.254 *Red civil airway No. 54* is amended to read in part:

From—	To—	Minimum Altitude
Burley, Idaho (LFR)..	Promontory Point, Utah, (LF/RBN).	11,500

4. Section 610.289 *Red civil airway No. 89* is amended to read in part:

From—	To—	Minimum Altitude
St. Joseph, Mo. (LFR).	Cameron (INT), Mo..	2,800
Cameron (INT), Mo...	Bedford (INT), Mo...	2,400

5. Section 610.292 *Red civil airway No. 92* is amended to read:

From—	To—	Minimum altitude
Int. SE crs. Newark, N. J. (LFR) and SW crs. Islip, N. Y. (VAR).	Fire Island (INT), N. Y.	1,500
Fire Island (INT), N. Y.	Islip, N. Y. (VAR)....	1,700
Islip, N. Y. (VAR)....	Int. NE crs. Islip, N. Y. (VAR) and SE crs. Bridgeport, Conn. (LFR).	1,500

6. Section 610.606 *Blue civil airway No. 6* is amended to read in part:

From—	To—	Minimum Altitude
Scott AFB, Belleville, Ill. (LFR).	Wood River (INT), Ill.	2,100
Wood River (INT), Ill.	Jerseyville (INT), Ill..	1,900

[1] 5,000'—Minimum reception altitude.

7. Section 610.1001 *Direct route, United States,* is amended to read in part.

From—	To—	Minimum altitude
Johnstown, Pa. (LF/RBN).	Philipsburg, Pa. (LFR).	4,000

8. Section 610.6004 *VOR civil airway No. 4* is amended to read in part:

From—	To—	Minimum altitude
Boise, Idaho (VOR)---Mountain Home, Idaho (FM).	Burley, Idaho (VOR). Boise, Idaho (VOR) (northwest-bound only).	9,000 7,700

9. Section 610.6010 *VOR civil airway No. 10* is amended to read in part:

From—	To—	Minimum altitude
Detroit, Mich. (VOR).	Maidstone (INT), Ont.[1]	[2] 2,300
Maidstone (INT), Ont.[1]	Erie, Pa. (VOR)----	[2] 2,300

[1] 3,700'—Minimum reception altitude.
[2] For that airspace over U. S. territory.

10. Section 610.6015 *VOR civil airway No. 15* is amended to read in part:

From—	To—	Minimum altitude
Kansas City, Mo. (VOR):	St. Joseph, Mo. (VOR):	
Direct----------	Direct----------	2,400
Via E. alter.----------	Via E. alter.----------	2,800

11. Section 610.6017 *VOR civil airway No. 17* is amended to read in part:

From—	To—	Minimum Altitude
Gage, Okla. (VOR)----	Garden City, Kans. (VOR).	[1] 4,400

[1] 4,300'—Minimum terrain clearance altitude.

12. Section 610.6034 *VOR civil airway No. 34* is amended to read in part:

From—	To—	Minimum altitude
Binghamton, N. Y. (VOR).	Newburgh (INT), N. Y.	4,500
Newburgh (INT), N. Y.	Wilton, Conn. (VOR).	3,000

13. Section 610.6042 *VOR civil airway No. 42* is amended to read in part:

From—	To—	Minimum altitude
Detroit, Mich. (VOR).	Maidstone (INT), Ont.[1]	[2] 2,300
Maidstone (INT), Ont.[1]	Cleveland, Ohio (VOR).	[3] 3,700

[1] 3,700'—Minimum reception altitude.
[2] 1,900'—Minimum terrain clearance altitude.
[3] For that airspace over U. S. territory.

14. Section 610.6073 *VOR civil airway No. 73* is amended to read in part:

From—	To—	Minimum altitude
Tulsa, Okla. (VOR), via E. alter.	Wichita, Kans. (VOR) via E. alter.	3,000 [1] 3,600

[1] 3,000'—Minimum terrain clearance altitude.

15. Section 610.6101 *VOR civil airway No. 101* is amended to read in part:

From—	To—	Minimum altitude
Ogden, Utah (VOR)---	Burley, Idaho (VOR).	11,500

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

These rules shall become effective August 25, 1953.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 53-7411; Filed, Aug. 24, 1953; 8:45 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.193]

PART 65—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN THE TECHNICAL AND CULTURAL-COOPERATION PROGRAM

MISCELLANEOUS AMENDMENTS

AUGUST 12, 1953.

Under the authority contained in R. S. 161 (5 U. S. C. 22) in section 4, 63 Stat. 111 (5 U. S. C. 151c) in the United States Information and Educational Exchange Act of 1948 (62 Stat. 6) and in section 108, Public Law 195, 83d Congress, the provisions of §§ 65.4 (b) and 65.10a, 65.10b and 65.10c are amended as follows:

1. Section 65.4 (b) is amended to read as follows:

(b) *Per diem in lieu of subsistence.* (1) Per diem of $8.00, in lieu of subsistence and all incidental expenses, including gratuitous fees, et cetera, while traveling to and from the United States except for the period spent on sea-going vessels, while on authorized or emergency stop-overs, and while in a travel status within the United States, which status shall terminate on the day he arrives at the city or other place where he is to study or receive training and shall recommence on the day he leaves that place, or other place to which he has been authorized to go, to return to his home.

(2) Per diem of $4.00, unless another rate not to exceed $8.00 is authorized, in lieu of subsistence and all incidental expenses including gratuitous fees, the cost of steamer chairs, rugs and cushions, et cetera, while traveling on sea-going vessels outside the continental limits of the United States.

2. Section 65.10a is amended to read as follows:

§ 65.10a *Grants to foreign trainees.* A citizen of a foreign country who has been awarded a grant as a trainee shall be, unless otherwise specified in the grant, entitled to:

(a) *Transportation expenses.* First-class minimum-available accommodations on steamship, airplane, railway, motor coach, or other means of conveyance. The trainee may be provided with an advance of funds for necessary transportation while in training, if it is not feasible to furnish him the transportation authorized herein.

(b) *Per diem.* (1) Per diem of $12.00 in lieu of subsistence and all incidental expenses, including gratuitous fees, et cetera, while traveling to and from the United States except for the period spent on sea-going vessels, while on authorized or emergency stop-over and while in a travel status within the United States. Participants who are assigned to a single U. S. installation or geographical location for less than 30 days shall be considered in a travel status for the entire period.

(2) Not to exceed $8 per diem in lieu of subsistence for participants who are assigned to a single geographical location for a period of more than 30 days for the purpose of (i) in-government-training or industrial training or (ii) pursuing courses at colleges or universities where dormitory and cafeteria facilities are not available to the participants.

(3) Not to exceed $6 per diem in lieu of subsistence for participants who are pursuing courses at colleges or universities where dormitory and cafeteria facilities are available to the participants.

(4) Upon determination by the Secretary of State that the maximum amount of per diem stated in subparagraphs (2) and (3) of this paragraph is inadequate because of increases in the cost of living, he may increase the maximum amount which may be authorized to the extent necessary to meet such additional cost provided that such increases are within any limitations set by law. Such per diem may be continued during the intervals between period of training or study and during period when trainee is obliged to remain in the United States

because of emergency conditions and unable to secure adequate financial assistance from other sources to meet such contingencies.

(5) Per diem of $5.00, unless another rate not to exceed $12.00 is authorized, in lieu of subsistence and all incidental expenses including gratuitous fees, and the cost of steamer chairs, rugs and cushions, et cetera, while traveling on sea-going vessels.

(c) *Baggage charges.* Reimbursement, upon presentation of receipt, of shipping charges for baggage, as follows:

(1) If travel is performed by air, for excess baggage not to exceed 50 pounds in weight, when shipped by air express, or not to exceed 200 pounds of unaccompanied baggage when shipped by surface transportation in those cases where training will be continued for a minimum period of six months.

(2) If travel is performed by means other than air, for a total of 250 pounds in weight, inclusive of all available free allowances.

(3) Under either subparagraphs (1) or (2) of this paragraph for additional baggage necessary to the purpose of the trip when specifically authorized or approved in writing either by the training agency or by the officer in charge of the appropriate United States Mission.

(d) *Alternate provision.* Travel expenses and per diem in accordance with the provisions of the Standardized Government Travel Regulations, when permissible under the law and specifically authorized under the grant, in lieu of the provisions of paragraphs (a) (b) and (c) of this section.

(e) *Tuition.* Tuition and related fees, when not available from other sources. Payment of such tuition and fees will be made by the training agency on behalf of the grantee directly to the institution concerned upon presentation of an itemized voucher.

(f) *Books and equipment allowance.* When specifically authorized, an allowance for books, equipment, and incidental expenses not to exceed $150 per year.

3. Section 65.10b is hereby revoked, and § 65.10c is redesignated § 65.10b.

4. Section 65.10c (redesignated § 65.10b) is amended to read as follows:

§ 65.10b *General provisions on trainee grants*—(a) *Advance of funds.* Advance of per diem is authorized for periods not in excess of 30 days.

(b) *Duration.* Not to exceed 12 months of actual training and study except for training in meteorology which requires 15 months. Grants may be extended or renewed when approved by the Department of State.

(c) *Insurance.* When authorized by law, health and accident insurance shall be provided grantees from available appropriations; where not so provided, grantees shall be required to provide such insurance, or its equivalent, without expense to the United States Government.

(d) *Other terms.* The amount, duration, and other terms of the grant shall be fixed in each individual case. A grant will be subject to cancellation if the recipient (1) does not maintain a satisfactory record of performance; (2) does not abide by United States Federal, State, and local laws; or (3) otherwise demonstrates his unsuitability to receive further assistance. Orientation facilities will be provided at no expense to the trainee.

For the Secretary of State.

DONOLD B. LOURIE,
Under Secretary of State for Administration.

[F. R. Doc. 53-7460; Filed, Aug. 24, 1953; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6037; Regs. 111]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

TAXATION OF INCOME OF FAMILY PARTNERSHIPS

On December 20, 1952, notice of proposed rule making with respect to section 340 of the Revenue Act of 1951, approved October 20, 1951, was published in the FEDERAL REGISTER (17 F R. 11663) After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments to Regulations 111 (26 CFR Part 29) set forth below are hereby adopted.

PARAGRAPH 1. Sections 29.113 (a) (13)–1 and 29.181–1 are each amended by adding at the end thereof the following: "For rules as to allocation of partnership income in the case of family partnerships, see section 191 and the regulations thereunder."

PAR. 2. There is inserted immediately after § 29.190–1, as amended by Treasury Decision 5851, approved August 10, 1951, the following:

SEC. 340. FAMILY PARTNERSHIPS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Definition of partner.* Section 3797 (a) (2) is hereby amended by adding at the end thereof the following: "A person shall be recognized as a partner for income tax purposes if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person."

(b) *Allocation of partnership income.* Supplement F of chapter 1 is hereby amended by adding at the end thereof the following new section:

SEC. 191. FAMILY PARTNERSHIPS.

In the case of any partnership interest created by gift, the distributive share of the donee under the partnership agreement shall be includible in his gross income, except to the extent that such share is determined without allowance of reasonable compensation for services rendered to the partnership by the donor, and except to the extent that the portion of such share attributable to donated capital is proportionately greater than the share of the donor attributable to the donor's capital. The distributive share of a partner in the earnings of the partnership shall not be diminished because of absence due to military service. For the purpose of this section, an interest purchased by one member of a family from another shall be considered to be created by gift from the seller, and the fair market value of the purchased interest shall be considered to be donated capital. The "family" of any individual shall include only his spouse, ancestors, and lineal descendants, and any trust for the primary benefit of such persons.

(c) *Effective date.* The amendments made by this section shall be applicable with respect to taxable years beginning after December 31, 1950. The determination as to whether a person shall be recognized as a partner for income tax purposes for any taxable year beginning before January 1, 1951, shall be made as if this section had not been enacted and without inferences drawn from the fact that this section is not expressly made applicable with respect to taxable years beginning before January 1, 1951. In applying this subsection where the taxable year of any family partner is different from the taxable year of the partnership—

(1) If a taxable year of the partnership beginning in 1950 ends within or with, as to all of the family partners, taxable years which begin in 1951, then the amendments made by this section shall be applicable with respect to all distributive shares of income derived by the family partners from such taxable year of the partnership beginning in 1950; and

(2) If a taxable year of the partnership ending in 1951 ends within or with a taxable year of any family partner which began in 1950, then the amendments made by this section shall not be applicable with respect to any of the distributive shares of income derived by the family partners from such taxable year of the partnership.

§ 29.191–1 *Family partnerships*—(a) *In general*—(1) *Introduction.* The production of income by a partnership is attributable to the capital or services, or both, contributed by the partners. The provisions of Supplement F which govern the taxation of the income of individuals carrying on business in partnership, are to be read in the light of their relationship to section 22 (a), which requires that income be taxed to the person who earns it through his own labor and skill and the utilization of his own capital.

(2) *Recognition of donee as partner* With respect to partnerships in which capital is a material income-producing factor, section 340 (a) of the Revenue Act of 1951 amends section 3797 (a) (2) (dealing with definition of partnership and partner) to provide that a person shall be recognized as a partner for income tax purposes for taxable years beginning after December 31, 1950, if he owns a capital interest in such a partnership whether or not such interest is derived by purchase or gift from any other person. In the case of any partnership in which capital is a material income-producing factor, if any capital interest in such partnership is created by gift, section 191, as added by section 340 (b) of the Revenue Act of 1951, provides for allocation of the partnership income where the distributive share of a donee partner under the partnership agreement is determined without allowance of reasonable compensation for services rendered to the partnership by the donor or is proportionately greater than the share of the donor attributable to the donor's capital. For rules of allocation, see § 29.191–2.

(3) *Requirement of complete transfer to donee.* A donee or purchaser of a

capital interest in a partnership is not recognized as a partner under the principles of section 3797 (a) (2) unless the capital interest is acquired in a bona fide transaction, not a mere sham for tax avoidance purposes or otherwise, and the donee or purchaser is the real owner of such interest. To be recognized, a transfer must vest dominion and control of the partnership interest in the transferee. The existence of such dominion and control in the donee is to be determined from all the pertinent facts and circumstances. A transfer is not recognized if the transferor retains such incidents of ownership that the transferee has not acquired full and complete ownership of the partnership interest. Transactions between members of a family will be closely scrutinized, and in the case of such transactions the circumstances at the time of a purported transfer and during the periods preceding and following it will be taken into consideration in determining the bona fides or lack of bona fides of the purported gift or sale. A partnership may be recognized for income tax purposes as to some alleged partners but not as to others.

(4) *Capital as a material income-producing factor* The determination as to whether capital is a material income-producing factor, for purposes of section 3797 (a) (2) must be made by reference to all the relevant facts of the individual case. Capital is a material income-producing factor if a substantial portion of the gross income of the business is attributable to the employment of capital in the business conducted by the partnership. In general, capital is not a material income-producing factor where the income of the business consists principally of fees, commissions or other compensation for personal services performed by members or employees of the partnership. On the other hand, capital is ordinarily a material income-producing factor if the operation of the business requires substantial inventories or a substantial investment in plant, machinery, or equipment.

(5) *Capital interest in a partnership.* For purposes of sections 191 and 3797 (a) (2) a capital interest in a partnership means an interest in the capital of the partnership, including accreditions thereto, which interest is distributable to the owner of the capital interest upon his withdrawal from the partnership or upon dissolution or liquidation of the partnership. The mere right to participate in the earnings and profits of a partnership is not a capital interest in the partnership.

(6) *Taxable years affected.* Section 340 of the Revenue Act of 1951, which added section 191 and amended section 3797 (a) (2), is effective for taxable years beginning after December 31, 1950; and expressly provides that no inferences as to family partnerships with respect to taxable years beginning prior to January 1, 1951, are to be drawn from the enactment of such section. If the taxable year of any family partner is different from that of the partnership, the amendments made by section 340 will apply to all distributive shares of income derived by family partners from a fiscal year of the partnership beginning in 1950 if it ends with or within taxable years of all the family partners which began in 1951, but will not apply in the case of a fiscal year of the partnership ending in 1951 which ends with or within a taxable year of any family partner which began in 1950.

(b) *Basic tests as to ownership*—(1) *In general.* Whether an alleged partner in a gift capital case is the real owner of the capital interest attributed to him and whether the donee has dominion and control over his or her interest, must be ascertained from all the facts and circumstances of the particular case. Isolated facts should not be considered determinative; the reality of the donee's ownership is to be determined in the light of the transaction as a whole. The execution of legally sufficient and irrevocable deeds or other instruments of gift under State law is a factor to be taken into account but is not determinative of ownership in the donee. The reality of the transfer and of the donee's ownership of the property attributed to him are to be ascertained from the conduct of the parties with respect to the alleged gift and not by any mechanical or formulistic test. Some of the more important factors to be considered in determining whether the donee has acquired ownership of the capital interest in a partnership are indicated in subparagraphs (2) to (10) of this paragraph.

(2) *Retained controls.* The donor may have retained such controls of the interest which he has purported to transfer to the donee that the donor should be treated as remaining the substantial owner of the interest. Controls of particular significance include, for example, the following:

(i) Retention of control of the distribution of income or restrictions on the distribution of income other than amounts retained in the partnership annually with the consent of the partners (including the donee partner) for the reasonable needs of the business. If there is a partnership agreement providing for a managing partner, or partners, then, amounts of income may be retained in the partnership without the acquiescence of all the partners if such amounts are retained for the reasonable needs of the business.

(ii) Limitation of the right of the donee to withdraw or sell his interest in the partnership at his discretion without financial detriment.

(iii) Retention of control of assets essential to the business (for example, through retention of assets leased to the alleged partnership)

(iv) Retention of management powers inconsistent with normal relationships among partners. Retention by the donor of control of business management or of voting control, such as is common in ordinary business relationships, is not by itself to be considered as inconsistent with normal relationships among partners provided the donee is free to withdraw his interest without financial detriment at his discretion. The donee shall not be considered free to withdraw his interest unless, considering all the facts, it is evident that the donee is independent of the donor and has such maturity and understanding of his rights as to be capable of deciding to exercise, and of exercising, his right to withdraw his capital interest from the partnership.

The existence of some of the indicated controls, though amounting to less than substantial ownership retained by the donor, may be considered along with other facts and circumstances as tending to show the lack of reality of the partnership interest of the donee.

(3) *Indirect controls.* Controls inconsistent with ownership by the donee may be exercised indirectly as well as directly, for example, through a separate business organization, estate, trust, individual, or other partnership. Where such indirect controls exist, the reality of the donee's interest will be determined as if such controls were exercisable directly.

(4) *Participation in management.* Substantial participation by the donee in the control and management of the business (including participation in the major policy decisions affecting the business) is strong evidence of a donee partner's exercise of the dominion and control over his interest. Such participation presupposes sufficient maturity and experience on the part of the donee to deal with the business problems of the partnership.

(5) *Income distributions.* The actual distribution to a donee partner of all or the major portion of his distributive share of the business income for the sole benefit and use of the donee is substantial evidence of the reality of the donee's interest provided the donor has not retained controls inconsistent with real ownership in the donee. Amounts distributed are not considered to be used for the donee's sole benefit if, for example, they are deposited, loaned, or invested in such ways that the donor controls or can control the use or enjoyment of such funds.

(6) *Conduct of partnership business.* In determining the reality of the donee's ownership of a capital interest in a partnership, consideration shall be given to whether the donee is actually treated as a partner in the operation of the business. It is of principal importance for this purpose whether the donee has been held out publicly as a partner in the conduct of the business, in relations with customers or with creditors or other sources of financing. Other factors of significance in this connection include:

(i) Compliance with local partnership, fictitious name, and business registration statutes.

(ii) Control of business bank accounts.

(iii) Recognition of the donee's interest in appropriate capital and drawing accounts.

(iv) Recognition of the donee's interest in insurance policies, leases, and other business contracts and in litigation affecting business.

(v) The existence of written agreements, records or memoranda, contemporaneous with the taxable year or years concerned, establishing the nature of the partnership agreement and the

rights and liabilities of the respective partners.

(vi) Filing of partnership tax returns as required by law.

However, despite formal compliance with the factors mentioned in this subparagraph, other circumstances may indicate that the donor has retained substantial ownership of the interest purportedly transferred to the donee.

(7) *Trustees as partners.* A trustee may be recognized as a partner for income tax purposes under the principles relative to family partnerships generally as applied to the particular facts of the trust-partnership arrangement. A trustee who is unrelated to and independent of the grantor, and who participates as a partner and receives distribution of the income distributable to the trust, will ordinarily be recognized as the owner of the partnership interest which he holds for the trust unless the grantor has retained controls inconsistent with such ownership. However, if the grantor is the trustee, or if the trustee is amenable to the will of the grantor, the provisions of the trust instrument (particularly with relation to whether the trustee is subject to the responsibilities of a fiduciary) the provisions of the partnership agreement, and the conduct of the parties must all be taken into account in determining whether the trustee in a fiduciary capacity has become the real owner of the partnership interest. In a case where the grantor (or person amenable to his will) is the trustee, the trust may be recognized as a partner only if the grantor (or such other person) in his participation in the affairs of the partnership actively represents and protects the interests of the beneficiaries in accordance with the obligations of a fiduciary, and does not subordinate such interests to the interests of the grantor. Furthermore, if the grantor (or person amenable to his will) is the trustee, particular consideration should be given to the following factors:

(i) Whether the trust is recognized as a partner in business dealings with customers and creditors, and

(ii) Whether, if the partnership income is not properly retained for the reasonable needs of the business, the trust's share of the income is distributed to the trust annually and paid to the beneficiaries or reinvested solely in the interest of the beneficiaries.

(8) *Interests of minor children not held in trust.* Except where a minor child is shown to be competent to manage his own property and participate in the partnership activities in accordance with his interest in the property, a minor child generally will not be recognized as a member of a partnership unless control of the property and its enjoyment is exercised by another person as fiduciary for the sole benefit of the child and unless there is such judicial supervision of the conduct of the fiduciary, guardian or otherwise, as is required by law. The use of the child's property or income for support for which a parent is legally responsible will be considered a use for the parent's benefit. "Judicial supervision of the conduct of a fiduciary" includes filing of such accountings and reports as are required by law of the fiduciary who participates in the affairs of the partnership on behalf of the minor. A minor child will be considered as competent to manage his own property if he actually has sufficient maturity and experience to be treated by disinterested persons as competent to enter into business dealings and otherwise to conduct his affairs on a basis of equality with adult persons, notwithstanding legal disabilities of the minor under State law.

(9) *Donees as limited partners.* The recognition of a donee's interest in a limited partnership will depend, as in the case of other donated interests, on whether the transfer of property is real and the donee has acquired dominion and control over the interests purportedly transferred to him. To be recognized for Federal income tax purposes, a limited partnership must be organized and conducted in accordance with the requirements of the applicable State limited partnership law. The absence of services and participation in management by a donee in a limited partnership is immaterial if the limited partnership meets all the other requirements prescribed in this section. If the limited partner's right to withdraw his interest is subject to substantial restrictions (for example, where the interest of the limited partner is not assignable in a real sense or where it may be required to be left in the business for a long term of years) or if the general partner retains any other control which substantially limits any of the rights which would ordinarily be exercisable by unrelated limited partners in normal business relationships, such restrictions on the right to withdraw or retention of other control will be considered strong evidence of lack of reality of ownership by the donee.

(10) *Motive.* If the reality of the transfer of interest is satisfactorily established, the motives for the transaction are immaterial. However, the presence or absence of a tax avoidance motive is one of many factors to be considered in determining the reality of a gift capital transaction.

(c) *Purchased interest*—(1) *In general.* If a purported purchase of a capital interest in a partnership does not meet the requirements of subparagraph (2) of this paragraph, the ownership by the transferee of such capital interest will be recognized only if it qualifies under the requirements applicable to a transfer of a partnership interest by gift. In a case not qualifying under subparagraph (2) if payment of any part of the purchase price is made out of the partnership earnings, the transaction may be regarded in the same light as a purported gift subject to deferred enjoyment of the income. Such a transaction may be lacking in reality either as a gift or as a bona fide purchase.

(2) *Tests as to reality of purchased interests.* A purchase of a capital interest in a partnership either directly or by means of a loan or credit extended by a member of the family will be recognized if it is shown to be bona fide under either of the following tests:

(i) That the purchase has the usual characteristics of an arm's length transaction, considering all relevant factors including the terms of the purchase agreement (as to price, due date of payment, rate of interest, and security, if any) and the terms of any loan or credit arrangement collateral to the purchase agreement; the credit standing of the purchaser, apart from relationship to the seller; and the capacity of the purchaser to incur a legally binding obligation; or

(ii) Assuming the lack of one or more of the usual characteristics of arm's length dealing, that the transaction was genuinely intended to promote the success of the business through securing participation in the business of the purchaser of the addition of his or her credit to that of other participants.

However, if the alleged purchase price or loan has not been paid or the obligation otherwise discharged the factors indicated in subdivision (i) and (ii) of this subparagraph, shall be taken into account only as an aid in determining whether a bona fide purchase or loan obligation existed.

§ 29.191–2 *Allocation of family partnership income for taxable years beginning after December 31, 1950*—(a) *In general.* (1) In the case of any partnership in which capital is a material income-producing factor, if any capital interest in such a partnership as created by gift before, on, or after December 31, 1950, the distributive share of the donee under the partnership agreement, for taxable years beginning after December 31, 1950, shall be includible in his gross income, except to the extent that such share is determined without allowance of reasonable compensation for services rendered to the partnership by the donor, and except to the extent that the portion of such share attributable to donated capital is proportionately greater than the share attributable to the donor's capital. For the purpose of this section, a capital interest in a partnership purchased by one member of a family from another shall be considered to be created by gift from the seller, and the fair market value of the purchased interest shall be considered to be donated capital. For the purpose of the preceding sentence, the "family" of any individual shall include only his spouse, ancestors, and lineal descendants, and any trust for the primary benefit of such persons.

(2) To the extent that the partnership agreement does not so allocate the partnership income, the partnership income of the donor and donee shall be reallocated by making a reasonable allowance for the services of the donor and by attributing the balance of such income (other than a reasonable allowance for the services, if any, rendered by the donee) to the partnership capital of the donor and donee. The portion of income, if any, thus attributable to partnership capital for the taxable year shall be allocated between donor and donee in accordance with their respective interests in the partnership capital.

(3) In determining a reasonable allowance for services rendered by the partners, consideration shall be given to all the circumstances of the business, including the fact that some of the part-

ners may have greater managerial responsibility than others. Among other factors, there shall be considered the amount that would ordinarily be paid in order to obtain comparable services from a person not having a capital interest in the partnership.

(4) In the case of a partner who rendered services to a partnership prior to entering service in the armed forces of the United States, his distributive share in the earnings of the partnership, determined under subparagraph (2) of this paragraph, shall not be diminished because of absence due to military service. Such distributive share shall be adjusted to reflect increases or decreases in the capital interest of the absent partner. However, the partners may by agreement allocate a smaller share to the absent partner due to his absence.

(b) *Special rules.* (1) The provisions of paragraph (a) of this section, relating to allocation, are applicable where the gift interest in the partnership is created indirectly as well as directly. Where the partnership interest is created indirectly, the term "donor" may include persons other than the nominal transferor.

Example 1. A father gives property to his son who shortly thereafter conveys the property to a partnership consisting of the father and the son. The partnership interest of the son may be considered created by gift and the father may be considered the donor of the son's partnership interest.

Example 2. A father, the owner of a business conducted as a sole proprietorship, transfers the business to a partnership consisting of his wife and himself. The wife subsequently conveys such interest to their son. In such case, the father, as well as the mother, may be considered the donor of the son's partnership interest.

Example 3. A father makes a gift to his son of stock in the family corporation. The corporation is subsequently liquidated. The son later contributes the property received in the liquidation of the corporation to a partnership consisting of his father and himself. In such case, the son's partnership interest may be considered created by gift and the father may be considered the donor of his son's partnership interest.

(2) The allocation rules set forth in section 191 and paragraph (a) of this section apply in any case in which the transfer or creation of the partnership interest has any of the substantial characteristics of a gift. Thus, allocation may be required where transfer of a partnership interest is made between members of a family (including collaterals) under a purported purchase agreement, if the characteristics of a gift are ascertained from the terms of the purchase agreement, the terms of any loan or credit arrangements made to finance the purchase, or from other relevant data.

(3) In the case of limited partnership, for the purpose of the allocation provisions of paragraph (a) of this section, proper weight shall be given to the fact that a general partner, unlike the limited partner, risks his credit in the partnership business.

PAR. 3. There is inserted immediately preceding § 29.3797-1 the following:

SEC. 340. FAMILY PARTNERSHIPS (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Definition of partner.* Section 3797 (a) (2) is hereby amended by adding at the end thereof the following: "A person shall be recognized as a partner for income tax purposes if he owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person."

* * * * *

(c) *Effective date.* The amendments made by this section shall be applicable with respect to taxable years beginning after December 31, 1950. The determination as to whether a person shall be recognized as a partner for income tax purposes for any taxable year beginning before January 1, 1951, shall be made as if this section had not been enacted and without inferences drawn from the fact that this section is not expressly made applicable with respect to taxable years beginning before January 1, 1951. In applying this subsection where the taxable year of any family partner is different from the taxable year of the partnership—

(1) If a taxable year of the partnership beginning in 1950 ends within or with, as to all of the family partners, taxable years which begin in 1951, then the amendments made by this section shall be applicable with respect to all distributive shares of income derived by the family partners from such taxable year of the partnership beginning in 1950; and

(2) If a taxable year of the partnership ending in 1951 ends within or with a taxable year of any family partner which began in 1950, then the amendments made by this section shall not be applicable with respect to any of the distributive shares of income derived by the family partners from such taxable year of the partnership.

PAR. 4. Section 29.3797-4 is amended by inserting immediately following the fifth sentence of the introductory text thereof the following: "See section 191 and the regulations thereunder, for treatment as a partner, for taxable years beginning after December 31, 1950, of any person who owns a capital interest in a partnership in which capital is a material income-producing factor, whether or not such interest was derived by purchase or gift from any other person."

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: AUGUST 18, 1953.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 53-7458; Filed, Aug. 24, 1953; 8:48 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 550—DEFINING AND DELIMITING THE TERM "TALENT FEES"

"TALENT FEES" AS USED IN FAIR LABOR STANDARDS ACT

Notice is hereby given that, pursuant to authority granted under section 7 (d) (3) (c) of the Fair Labor Standards Act, as amended (52 Stat. 1060; 29 U. S. C. 201) and notice published July 16, 1953 (18 F. R. 4182) the regulations contained in this part are hereby amended as follows:

1. Amend Part 550 by adding a proviso at the end of § 550.1 to read: "*Provided, however,* That where services described in paragraph (a) are performed on a program falling outside of the regular workday or workweek as established and scheduled in good faith in accordance with the provisions of the applicable employment agreement, the Administrator will not regard the act as requiring additional compensation as a result of the time worked on the program if the parties agree in advance of such program that a special payment made therefor shall include any increased statutory compensation attributable to the additional worktime thereon and if such special payment, when made, is actually sufficient in amount to include the statutory straight time and overtime compensation (computed without regard to talent fees) for the additional time worked in the workweek resulting from the performer's services on such program.

(52 Stat. 1060, as amended; 29 U. S. C. 201-219)

Signed in Washington, D. C., this 19th day of August 1953.

WM. R. MCCOMB,
Administrator
Wage and Hour Division.

[F. R. Doc. 53-7444; Filed, Aug. 24, 1953; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 941]

[Docket No. AO-101-A15]

HANDLING OF MILK IN CHICAGO, ILL., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING ORDER NOW IN EFFECT

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceeding to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was conducted at Chicago, Illinois, on August 11, 1953, pursuant to notice thereof which was issued on July 30, 1953 (18 F R. 4606)

The material issues of record related to:

(1) A revision of the provisions relating to the 70-cent additional differential on Class I and Class II milk moved in bulk form to markets outside the surplus milk manufacturing area during the months of September, October and November by making application of such additional differential depend on the supply and demand for milk in the Chicago area.

(2) A revision of the above stated provisions by deleting the months of September and October for the year 1953.

(3) The need for immediate change in the order provisions with respect to issue No. 2.

Findings and conclusions. The following findings and conclusions on the material issues are based upon evidence contained in the record of the hearing.

(1) This issue is reserved for a further decision on this record.

(2) The 70-cent additional differentials pursuant to § 941.52 (a) (3) and (b) (3) should not apply during September and October 1953 to Class I and Class II milk moved in bulk to any place outside the surplus milk manufacturing area.

Producer and handler representatives requested that the 70-cent additional differentials not apply during September and October 1953 to Class I and Class II milk moved to outside the surplus milk manufacturing area. The request was made because of the increased volume of producer receipts compared with previous years. Producers and handlers testified to the effect that: (1) The current level of receipts assures an adequate reserve supply of milk for the Chicago marketing area during these months without the effect of the 70-cent differentials on such outside sales; and (2) under such circumstances, application of the 70-cent differentials would reduce the volume of such outside sales, thus causing more producer milk to be used in the lower classifications. In the latter instance, producers would suffer a reduction in income which may be averted by taking advantage of the opportunity to supply milk to other markets.

Producer receipts during the first six months of the year have been higher in each month than in the same month of 1952 and in June were about 13 percent greater than in June 1952. The percent of producer receipts used in Class I and Class II, exclusive of sales outside the surplus milk manufacturing area likewise has been less than last year and in June was 54.0 percent compared to 59.4 percent in June 1952.

It is noted that sales of Class I and Class II milk outside the surplus milk manufacturing area have been in the first six months of this year at a low level compared with sales in recent years. Testimony indicated this change reflected improved supply conditions in some of the outside markets to which such sales are ordinarily made.

It is concluded that the 70-cent additional differentials for Class I and Class II milk moved in bulk to any place outside the surplus milk manufacturing area should not apply in September and October 1953.

(3) The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the opportunity for exceptions thereto.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the attached order effective would defeat the purpose of such amendments. The time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereto, would reduce the effectiveness of such relief and would tend to prevent the effectuation of the declared policy of the act. The omission of the recommended decision and filing of exceptions thereto was requested by producers and handlers on the record.

Rulings on proposed findings and conclusions. Briefs were filed which contained proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed marketing agreement and the order, as amended and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement upon which a hearing has been held.

Determination of representative period. The month of June 1953 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, now in effect, regulating the handling of milk in the Chicago, Illinois, marketing area, in the manner set forth in the attached amending order is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area," and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 20th day of August 1953.

[SEAL] E. T. BENSON,
Secretary of Agriculture.

Order[1] *Amending the Order as Amended, Regulating the Handling of Milk in the Chicago, Illinois, Marketing Area*

§ 941.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date here of the handling of milk in the Chicago, Illinois, marketing area shall be in conformity to and compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

1. In § 941.52 (a) (3) change the period at the end of the sentence to a colon and add the following proviso: *"Provided,* That this subparagraph shall not apply in September and October 1953."

2. In § 941.52 (b) (3) change the period at the end of the sentence to a colon and add the following proviso: *"Provided,* That this subparagraph shall not apply in September and October 1953."

[F. R. Doc. 53-7464; Filed, Aug. 24, 1953; 8:50 a. m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

NOTICES

FEDERAL POWER COMMISSION

[Docket No. G-2098]

TEXAS ILLINOIS NATURAL GAS PIPELINE CO.

NOTICE OF EXTENSION OF TIME

AUGUST 18, 1953.

Upon consideration of the motion of Texas Illinois Natural Gas Pipeline Company (Applicant) filed August 7, 1953, for an extension of time;

Notice is hereby given that an extension of time is granted to and including November 1, 1953, within which Applicant shall complete the construction of the facilities and sell and deliver storage gas to the Natural Gas Storage Company of Illinois, authorized by the Commission's order issued March 27, 1953, in the above designated matter. Paragraph (C) (1) of said order is amended accordingly.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 53-7445; Filed, Aug. 24, 1953; 8:45 a. m.]

[Docket No. G-2099]

NATURAL GAS PIPELINE CO. OF AMERICA

NOTICE OF EXTENSION OF TIME

AUGUST 18, 1953.

Upon consideration of the motion of Natural Gas Pipeline Company of America (Applicant) filed August 7, 1953, for an extension of time;

Notice is hereby given that an extension of time is granted to and including November 1, 1953, within which Applicant shall actually undertake and regularly perform the operation, sale and service authorized by the Commission's order issued March 27, 1953, in the above-designated matter. Paragraph (C) (1) of said order is amended accordingly.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 53-7446; Filed, Aug. 24, 1953; 8:46 a. m.]

[Project No. 2138]

HARVEY ALUMINUM, INC.

NOTICE OF APPLICATION FOR PRELIMINARY PERMIT

AUGUST 19, 1953.

Public notice is hereby given that Harvey Aluminum, Inc., of Torrance, California, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for preliminary permit for proposed water power Project No. 2138 to be located on Copper River, approximately 85 miles above its mouth in the Third Judicial Division, Territory of Alaska, affecting lands of the United States. The proposed project would consist of a concrete dam about 560 feet high above river surface forming a reservoir extending about 51 miles up Copper River and 55 miles of Chitina River with a capacity of about 18,500,000 acre feet, 14,000,000 of which would be active storage; a powerhouse with an ultimate installed capacity of 1,475,000 horsepower, transmission lines, and appurtenant facilities. The energy generated would be utilized by electro-chemical and metallurgical industries and for other purposes. The preliminary permit, if issued, shall be for the sole purpose of maintaining priority of application for a license under the terms of the Federal Power Act for the proposed project.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 9th day of October 1953. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE, *Acting Secretary.*

[F. R. Doc. 53-7447; Filed, Aug. 24, 1953; 8:46 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 53322; Customs Delegation Order No. 4]

COLLECTORS OF CUSTOMS

TRANSFER OF FUNCTION FROM APPRAISERS OF MERCHANDISE

AUGUST 19, 1953.

By virtue of authority vested in me by Treasury Department Order No. 165 (T. D. 53160, 17 F. R. 11705) I hereby transfer from the appraisers of merchandise to the collectors of customs the function under section 606 of the Tariff Act of 1930 (19 U. S. C. 1606) of determining the domestic value, at the time and place of appraisement, of any vessel, vehicle, merchandise, or baggage seized

under the customs laws, in any case where the aggregate value of the seizure does not exceed $250.

[SEAL] C. A. EMERICK,
Acting Commissioner of Customs.

[F. R. Doc. 53-7457; Filed, Aug. 24, 1953; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[Notice No. 2 of Requirement of Certification—1953]

SUGAR REQUIREMENTS AND QUOTAS

ENTRY OF SUGAR INTO CONTINENTAL UNITED STATES; CUBA

Pursuant to § 817.4, Rev. 1 (13 F R. 127, 14 F. R. 1169, 16 F R. 12847) notice is hereby given that the 1953 sugar quota for Cuba, amounting to 2,527,107 short tons of sugar, raw value, has been filled to the extent of 80 per centum or more. Accordingly, pursuant to § 817.4, Rev. 1, for the remainder of the calendar year 1953 Collectors of Customs shall not permit the entry into the continental United States from Cuba of any sugar unless and until the certification described in Part 817 is issued.

(Section 403, 61 Stat. 932; 7 U. S. C. Sup. 1153, 13 F. R. 127, 14 F. R. 1169, 16 F. R. 12847)

Issued this 18th day of August 1953.

[SEAL] THOS. H. ALLEN,
Acting Director Sugar Branch, Production and Marketing Administration.

[F. R. Doc. 53-7467; Filed, Aug. 24, 1953; 8:51 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

FEDERAL HOUSING COMMISSIONER

REDELEGATION OF AUTHORITY TO NEGOTIATE CONTRACTS FOR SERVICES OF ENGINEERING AND ARCHITECTURAL FIRMS

1. By virtue of the authority vested in the Housing and Home Finance Administrator by the Administrator of General Services on July 7, 1953, by the delegation of authority published at 18 F R. 4051 (July 10, 1953) the Federal Housing Commissioner is hereby authorized to negotiate without advertising, under section 302 (c) (4) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377, 393, 41 U. S. C., 1946 ed. Sup. V 252 (c) (4) contracts for the services of engineering and architectural firms when such services are incident to the repair and improvement of properties and projects acquired in the program operations of the Federal Housing Administration.

2. The authority redelegated herein shall be exercised strictly in accordance with Title III of the Federal Property and Administrative Services Act of 1949, as amended.

3. The authority contained herein may be redelegated to any officer or employee of the Federal Housing Administration.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1268, 1283-85 (1948), as amended, 12 U. S. C., 1946 ed. Sup. V 1701c; 63 Stat. 413, 440 (1949), 12 U. S. C., 1946 ed. Sup. V 1701d-1; 48 Stat. 1246, as amended, 12 U. S. C., 1946 ed. and Sup. V 1702 et seq., 63 Stat. 377, 393, as amended, 41 U. S. C. 1946 ed. Sup. V 251-260; GSA Del., July 7, 1953, 18 F R. 4051)

Effective this 25th day of August 1953.

ALBERT M. COLE,
Housing and Home Finance Administrator

[F. R. Doc. 53-7459; Filed, Aug. 24, 1953; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-224]

AMERICAN POWER & LIGHT CO.

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATON, AND OF OPPORTUNITY FOR HEARING

AUGUST 18, 1953.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to strike from listing and registration the Capital Stock, No Par Value, of American Power & Light Company.

The application alleges that the reasons for striking this security from listing and registration on this exchange are as follows:

(1) Facilities for transfer or registration of the above security in the Borough of Manhattan are no longer available, inasmuch as the Board of Directors of the above issuer fixed July 22, 1953 as the effective date for the Plan For Dissolution and for Distribution of All Net Assets to Stockholders, dated September 29, 1952, approved by the Securities and Exchange Commission March 31, 1953, and approved by the United States District Court for the District of Maine, Southern Division, on May 15, 1953, which Plan provides, among other matters, that certificates for shares of the above security shall not be transferable on the books of the issuer on and after the effective date of the Plan.

(2) The issuer has advised holders of the above security that holders of record at the close of business on July 21, 1953, will be treated as those to whom all liquidating distributions will be made, including the initial distribution on September 3, 1953, in partial liquidation at the rate of 95¢ for each share of the above security and one share of common stock of Portland Gas & Coke Company for 43 shares of the above security.

Upon receipt of a request, prior to September 15, 1953, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commisison.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F R. Doc. 53-7448; Filed, Aug. 24, 1953; 8:46 a. m.]

[File No. 1-1645]

VENEZUELAN HOLDING CORP

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

AUGUST 18, 1953.

The Boston Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to strike from listing and registration the Common Capital Stock, $1 Par Value, of Venezuelan Holding Corporation.

The application alleges that the reasons for striking this security from listing and registration on this exchange are as follows:

(1) 86,000 shares of the total number of 131,000 shares outstanding of the above security, or 65 percent of the total number of outstanding shares, are owned by two shareholders, the Wichita River Oil Company and one individual whose interests are allied with the Wichita River Oil Company.

(2) There are only 170 holders of the above security

(3) No transactions in this security have been effected on applicant exchange since October 1949, when 100 shares were sold at the price of 80 cents per share.

(4) No other transaction in this security was effected on applicant exchange during the year 1949 except one transaction involving 10 shares sold at a price of 80 cents per share during the month of June of that year.

Upon receipt of a request, prior to September 9, 1953, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on

this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-7449; Filed, Aug. 24, 1953; 8:47 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. 12-7]

LINDE AIR PRODUCTS CO.

COMPLAINT RECEIVED

AUGUST 19, 1953.

Complaint as listed below has been filed with the Tariff Commission for investigation under the provisions of section 337 of the Tariff Act of 1930.

Name of article	Purpose of request	Date received	Name and address of complainant
Synthetic star sapphires and rubies.	Exclusion from entry.	Aug. 11, 1953	Linde Air Products Co., a division of Union Carbide and Carbon Corp., New York, N. Y.

The complaint listed above (except matter marked confidential) is available for public inspection at the office of the Secretary, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C., and also in the New York Office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

DONN N. BENT, *Secretary.*

[F. R. Doc. 53-7450; Filed, Aug. 24, 1953; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28382]

GRAIN FROM POINTS IN IOWA TO MASON CITY, IOWA

APPLICATION FOR RELIEF

AUGUST 20, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Grain, grain products, and related articles, carloads.

From: Points in Iowa.

To: Mason City, Iowa.

Grounds for relief: Competition with rail carriers, circuitous routes, to apply rates constructed on the basis of the short-line distance formula.

Schedules filed containing proposed rates; W J. Prueter, Agent, tariff I. C. C. No. A-3727, supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-7454; Filed, Aug. 24, 1953; 8:47 a. m.]

[4th Sec. Application 28383]

ZINC FROM SOUTHWEST TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

AUGUST 20, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Zinc, pig, slab, or spelter, carloads.

From: Points in Arkansas, Oklahoma, and Texas.

To: Points in official territory.

Grounds for relief: Competition with rail carriers.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, tariff I. C. C. No. 4045, supp. 15.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-7455; Filed, Aug. 24, 1953; 8:47 a. m.]

[4th Sec. Application 28384]

IRON OR STEEL SHEETS FROM MIDDLETOWN, OHIO, TO NEW ORLEANS AND MICHOUD, LA.

APPLICATION FOR RELIEF

AUGUST 20, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by The St. Louis-San Francisco Railway Company for itself and on behalf of carriers parties to Agent L. C. Schuldt's tariff I. C. C. No. 4527, pursuant to fourth-section order No. 16101.

Commodities involved: Flat rolled iron or steel sheets, carloads.

From: Middletown, Ohio.

To: New Orleans and Michoud, La.

Grounds for relief: Competition with rail carriers, circuitous routes, operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD, *Acting Secretary.*

[F. R. Doc. 53-7456; Filed, Aug. 24, 1953; 8:47 a. m.]